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In the Matter of:

CABLE ROYALTY DISTRIBUTION : CRT Docket No. 83-1

1982 - Phase I :

----- X

(This volume contains pages 982 through 1085)

2000 L Street, Northwest
Room 500
Washington, D. C.

Thursday, August 2, 1984

The hearing in the above-entitled matter commenced
at 10:05 a.m., pursuant to adjournment.

BEFORE:

THOMAS BRENNAN	Chairman
DOUGLAS E. COULTER	Commissioner
EDDIE RAY	Commissioner
MARIO F. AGUERO	Commissioner
MARIANNE MELE HALL	Commissioner

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P R O C E E D I N G S

(10:05 a.m.)

CHAIRMAN BRENNAN: The hearing will resume.

We will hear today the rebuttal case of the Devotional Claimants, they have two witnesses, if they are both present, I will ask them to stand now and swear them in jointly.

Whereupon,

JAMES REID and THOMAS HOHMAN

were called as witnesses and, having first been duly sworn, were examined and testified as follows:

CHAIRMAN BRENNAN: Ms. Ford.

MS. FORD: I would like to call our first witness, Mr. James Reid.

I have provided Mr. Reid with a copy of our Exhibits 10 through 15, and have also provided the Reporter with those same exhibits.

DIRECT EXAMINATION

BY MS. FORD:

Q Mr. Reid, could you state for the record your name and place of employment, and title?

A My name is B. J. Jim Reid, and my place of employment is CBN, CBN Continental, CBN Cable, CBN Cable Productions, Incorporated.

Q And what do you do within those organizations?

1 A I am Vice President, Programming and Operations
2 of CBN Continental, which is basically the station owned
3 and operated groups, and I am responsible for programming,
4 and also, for the operations of the stations. I am Vice
5 President of Programming for CBN Cable, and my basic
6 duties there are to program the cable system, negotiate
7 for programming, buy programming and schedule programming,
8 and supervise the day-to-day program operation of CBN
9 Cable.

10 I am also Vice President of CBN Cable Productions,
11 Incorporated, which is a production-syndication company --
12 well, production company, and we are involved in the co-
13 production of entertainment programming for both cable and
14 over-the-air broadcasts.

15 Q Would you like to correct the record as to the
16 spelling of your name?

17 A Yes, my name is R-e-i-d.

18 MS. FORD: We should also correct Mr. Clark's
19 name, there is no "e" on the end of Clark. And I think we
20 are going to find out that Thomas Hohman's name is also
21 spelled wrong; but at least we are consistent.

22 I would like to identify for the record Devotional
23 Claimants' Exhibit 10, it is a one-paged exhibit, entitled
24 Distant Carriage of Washington Area Television Broadcast
25 Stations over Form 3 Cable Systems in 1982.

(Whereupon, the document was marked for identification as Devotional Claimants' Exhibit No. 10.)

BY MS. FORD:

Q Mr. Reid, could you -- do you have that exhibit before you?

A Yes, I do.

Q Did you prepare this exhibit yourself?

A No, I didn't.

Q Where was the information derived that is on this exhibit?

A The information -- well, the exhibit was prepared by Larson Associates, using the Form 3 cable system reports for the second accounting period only of 1982.

MS. FORD: I should clarify for the record that our office actually put together this information, but the information came from Larson and Associates, they came up with the numbers.

BY MS. FORD:

Q Mr. Reid, what kinds of information do you come away with by looking at this exhibit, and what does it mean to you?

A Well, the exhibit lists all of the TV stations licensed in the Washington Metropolitan Area, and also lists the number of cable systems that carry those. The information that I come away with is the large number of

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1 systems that carry the independents, and I will correct
2 myself, the number of systems that carry the stations as
3 a distant signal. The large number of systems that carry
4 the independent stations from Washington, and the far lesser
5 number of cable systems that carry the network affiliates,
6 and then when you finally get to the educational stations,
7 between the four educational stations listed, only a
8 cumulative total of two systems carry them.

9 Q Are you familiar with the programming on WTTG and
10 WDCA?

11 A Yes, I am familiar with the programming on DCA
12 and TTG.

13 Q Maybe we should back and, hopefully, this won't
14 be too disturbing, but if you could go a little back into
15 your background in broadcasting?

16 A Presently I have told you what I do. Immediately
17 prior to coming to work for the CBN companies, I was
18 Assistant General Manager of WDCA in Washington, that was
19 a tenure of about two years. Prior to that I was in the
20 syndication business, I worked for a company out of
21 Baltimore, called Plaster Television Productions. I was
22 Vice President and National Sales Manager of that company,
23 we produced and marketed Bowling for Dollars; Great Space
24 Coaster; and Romper Room on an international basis.

25 Prior to that, I was again with WDCA, I was with

1 DCA the first time about seven years, started as Program
2 Manager of the station, and was Assistant General Manager
3 at the point I left.

4 Prior to that, I worked in Birmingham, Alabama,
5 I was Program Manager and Operations Manager of the CBS
6 affiliate, I was local Sales Manager of the CBS affiliate.
7 Prior to that I was with the Taft Broadcasting Station
8 in Birmingham and then worked throughout the country, on
9 several projects of Taft Broadcasting, at their other
10 stations. All of this taking up approximately 31 years
11 of my life.

12 Q Are you barely familiar with the programming that
13 was carried on WDCA and WTTG during 1982?

14 A Yes.

15 Q Could you explain to me the differences, if any,
16 between the two independents, in the sense of their local
17 ratings, and also, in the sense of the content of their
18 programming?

19 A In 1982, on a local rating basis, WTTG had over
20 twice the sign-on to sign-off audience share of WDCA.
21 WTTG was a fairly conventional programmed independent TV
22 station, whereas I felt that WDCA was a fairly conventional
23 programmed TV station, but yet there is a tremendous dif-
24 ference in that WDCA did carry a large portion, not a
25 majority, but a large amount of religious programming as

1 compared to WTTG.

2 In 1982, DCA carried a morning strip of the
3 700 Club, and an evening strip of PTL, had a large block
4 of Sunday morning religious programming, and had a large
5 block of Sunday night religious programming; whereas WTTG
6 had very little regular scheduled religious programming.

7 Q And you said, if I could have you clarify --
8 were the local ratings for TTG higher than DCA?

9 A Yes, the local ratings at WTTG on a sign-on to
10 sign-off basis were a little over twice.

11 Q Look at the number of systems that carried these
12 two stations, how many carried WTTG and how many carried
13 WDCA?

14 A Thirty systems carried WTTG, 25 carried WDCA,
15 it is very close.

16 Q Could you come away with any conclusions, any
17 that you could draw from that?

18 A Oh, yes, I would conclude that DCA, even with its
19 two strips of religious programming and fairly heavy
20 religious programming on weekends was as desirable to
21 cable systems as WTTG was, even though WTTG had a higher
22 audience rating in the Washington area.

23 MS. FORD: I would like to offer Devotional
24 Claimants' Exhibit 10 into evidence.

25 CHAIRMAN BRENNAN: It will be received.

(Whereupon, Devotional Claimants'
Exhibit No. 10 was received in evidence)

CHAIRMAN BRENNAN: Mr. Reid, did you prepare the
carriage of sporting events on these two channels?

THE WITNESS: In 1982, WDCA carried the Orioles.
I don't believe WTTG carried any local professional sports.
WTTG carried some independently produced quasi-network
sports events, but WDCA was a little heavier into sports
than WTTG.

COMMISSIONER HALL: Mr. Reid, you said that you
feel that the ratings of WTTG were higher than WDCA, what
ratings, the Nielsen?

THE WITNESS: Yes, I would be specific, the
ratings as reflected in the 1982 Nielsen and ARB Rating
Books. The sign-on to sign-off share of audience reached
by WDCA and reached by WTTG.

COMMISSIONER HALL: These are ratings over the
sweep weeks, or ratings over meters?

THE WITNESS: Sweep; there were no meters in
Washington in 1982, meters did not come in until this year.

BY MS. FORD:

Q Let's turn to Devotional Claimants' Exhibit 11,
it is a one-paged exhibit entitled Distant Carriage of
Dallas-Fort Worth Television Broadcast Stations over
Form 3 Cable Systems in 1982.

(Whereupon, the document was marked for identification as Devotional Claimants Exhibit No. 11.)

BY MS. FORD:

Q Are you familiar with this exhibit, Mr. Reid?

A Yes, I am familiar with this exhibit.

Q Did you prepare this exhibit?

A No, I didn't.

Q Where did the information for this exhibit come from?

A The information for this exhibit came from the same sources as the prior exhibit, which was the Form 3 Cable Systems for the second reporting period of 1982, prepared in a report by Larson Associates.

Q What is this exhibit, basically, what is it all about? What does it state?

A The exhibit is a listing of the TV stations licensed to the Dallas-Fort Worth market, and also, the number of cable systems that carried these TV stations as a distant signal.

Q Are there any corrections in the call signs that you know of?

A Yes. The third station from the bottom should be KTXA, rather than KTXP; and it is not Channel 2, it is Channel 21.

Q Could you describe briefly the programming that

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1 was on KXTX and the programming that was on KTVT?

2 A KTVT is an independent station owned by Gaylord
3 Broadcast, the people in Washington would most likely
4 compare the similarities of programming to WTTG, it is a
5 fairly conventional independent that does kids in the
6 afternoon and sit-coms, and adult entertainment programming
7 in prime time, into the late news and into movies. The
8 station is basically 100 percent entertainment and news.

9 KXTX is the CBN Continental station in Dallas,
10 and the format that we use on KXTX is similar to a
11 conventional independent, except that we break in the
12 morning and carry a five-day per week strip of the 700
13 Club, and in prime time we also carry a strip, Monday
14 through Friday, a strip of the 700 club. In 1982, we
15 had -- the majority of our programming on Sundays still
16 was religious programming, with very little entertainment
17 programming. Our Saturdays were, basically, entertainment
18 programming.

19 Again, whereas KTVT had very little religious
20 or ministry programming.

21 Q If you could describe again the different prime
22 time programming formats in these two stations?

23 A The prime time programming, basically, KXTX did
24 and still does split its prime time, in that it is approxi-
25 mately half entertainment programming, and then it is

1 approximately half 700 Club. And KTVT runs 100 percent
2 entertainment programming in their prime time.

3 Q Are you aware, or do you have any knowledge of
4 the local ratings of these two stations?

5 A Yes, I am very aware of the ratings in the Dallas
6 market. In November of 1982, the sweep rating period, as
7 reported by ARB for November -- and this, again, would be
8 a diary rating, because there were no meters in Dallas at
9 that point -- KXTX had a sign-on to sign-off share of
10 audience of four; and KTVT had a sign-on to sign-off share
11 of audience of a 10, that's for the November 1982 ARB period.

12 Q Do you have before you the first volume of the
13 special report that was commissioned, I believe, by the
14 Motion Picture Association?

15 A Yes, that is Volume 1 of 5.

16 Q Could you report for the Tribunal the distant
17 signal viewing figures for these two stations?

18 A Certainly. This figure is in thousands of house-
19 holds, average households watching; KTVT, the Gaylord
20 independent in Dallas reached an average of 14,000 households,
21 and KXTX, the CBN Continental station in Dallas reached an
22 average of 16,000 households; 2,000 households higher than
23 KTVT, even though KTVT in the ARB had over twice the
24 audience.

25 Q Do you have any conclusions, or can you come

1 away with any conclusions of those rather disparate figures?

2 A Other than the most obvious, from these figures
3 is that people find KXTX more acceptable on cable than they
4 do over-the-air, there is a tremendous disparity in numbers.

5 Q Are there more cable systems that carry KXTX
6 than KTVT?

7 A Yes, 38 carry KTVT, whereas 43 carry KXTX.

8 Q Do cable operators carry KXTX by microwave, do
9 you know?

10 A Cable operators, as a distant signal, have to
11 pick up KXTX through microwave, it is not on satellite.

12 Q Do cable operators pay for that microwave charge?

13 A Yes.

14 Q Would they pay a common carrier to deliver that
15 programming, the KXTX programming, do you know?

16 A Does who?

17 Q The cable operator?

18 A Yes.

19 Q KXTX would not pay --

20 A No, KXTX does not pay.

21 MS. FORD: I would like to offer Exhibit 11 --
22 Devotional Claimants' Exhibit 11 into evidence.

23 CHAIRMAN BRENNAN: It will be received.

24 (Whereupon, Devotional Claimants'
25 Exhibit 11 was received in evidence)

1 MS. FORD: Let's turn now to Devotional Claimants
2 Exhibit 12, a one-page exhibit entitled the Top 25 Most
3 Widely Carried Distant Signals on Form 3 Cable Systems
4 during 1982.

5 (Whereupon, the document was marked
6 for identification as Devotional
Claimants Exhibit No. 12)

7 BY MS. FORD:

8 Q Mr. Reid, did you prepare this exhibit?

9 A No, I didn't.

10 Q Where did the information for this exhibit come
11 from?

12 A The information on this exhibit also came from
13 the Form 3 Cable System reports, as prepared by Larson
14 Associates.

15 Q And is this in the second accounting period of
16 1982?

17 A That's correct, all three of them are the second
18 accounting period only.

19 Q Basically, what does this exhibit say, if you
20 could explain it?

21 A From the Form 3 cable system reports this exhibit
22 is a list of the Top 25 Most Widely Carried Distant Signals.
23 The stations are listed in order by the number of systems
24 carrying that station, with the most carried station being
25 listed first and the least carried of the Top 25 being

1 listed last.

2 Q Do you see any network affiliates on this list?

3 A No.

4 Q Do you see any educational stations on this list?

5 A No.

6 Q Looking down the list, what stations would be
7 considered super stations, what stations are available
8 via satellite?

9 A As of 1982, the super stations would be the
10 first four stations listed on the report, WTBS, WGN, WOR
11 and WGIX.

12 Q So if you would draw a line under number four you
13 would have the broadcast stations that were carried as
14 distant signal, and that were not on satellites?

15 A That is correct.

16 Q Where is the CBN Continental owned station on
17 this list, if it is?

18 A (Perusing document) The CBN Continental station
19 is KXTX, and if you eliminate the satellite delivery
20 stations, that makes KXTX the sixth most viewed station or
21 the sixth most carried station on cable systems in the
22 United States, of the more than 600 TV stations that were
23 on the air in 1982.

24 Q Do you see a drop off in the amount of cable
25 systems that carried the satellite-available stations, as

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1 opposed to the over-the-air?

2 A Oh, yes, the satellite-delivered stations with
3 picks at 149 systems, and then to the next station, just
4 literally drops in half to 74, with WSBK in Boston.

5 Q You had testified earlier that KXTX runs approxi-
6 mately half of its prime time programming as devotional
7 programming, is that correct?

8 A That's correct.

9 Q Are you aware that any of the other stations
10 below KXTX, in other words, the 11 down carry any religion
11 in their prime time?

12 A I am not aware that any of the stations -- and
13 I am familiar with most of the stations -- I am not aware
14 that any of the stations, starting with number 11 and
15 going through number 22, carry prime time religion on a
16 regularly scheduled basis. Stations number 23, 24 and 25
17 I am not really that familiar with those stations.

18 MS. FORD: I would like to offer Devotional
19 Claimants' Exhibit 12 in evidence.

20 CHAIRMAN BRENNAN: It is received.

21 (Whereupon, Devotional Claimants'
22 Exhibit 12 was received in evidence)

23 MS. FORD: We will turn to Devotional Claimants'
24 Exhibit 13, it is a one-page exhibit, entitled Comparison
25 of Distant Cable Viewing, Multi-Media Program Productions,

1 Inc., versus Selected Devotional Claimant Programming.

2 (Whereupon, the document was marked
3 for identification as Devotional
Claimants Exhibit 13.)

4 BY MS. FORD:

5 Q Did you prepare this exhibit, Mr. Reid?

6 A No, I didn't.

7 Q What is the source of this information?

8 A The source of this information was the Nielsen
9 HomeVideo Index Viewing of Non-Network Programs by Distant
10 Cable Households, and this portion of it actually came
11 from Volume 25. This is the report that was prepared for
12 the Motion Picture Association.

13 Q Are there any explanations that you would like
14 to make as to numbers?

15 A Yes.

16 Q Maybe you can explain first how it was done?

17 A Okay, I will try to explain how it was done,
18 sometimes it is easier to do it, than to explain how.
19 There is a listing of programming and we physically went
20 to the report, and for the Donahue, as an example, went
21 to each of the lines that specify Donahue programming, and
22 took the total number of quarter-hours -- quarter-hours
23 is the way the report is done -- took the total number of
24 quarter-hours that the Donahue Show was carried and then
25 that figure was multiplied times the average household

1 viewing that program in that time period. So, we have come
2 up with a figure that I guess we could call quarter-hour
3 households. But it is the average number of viewers per
4 quarter-hour times the total number of quarter-hours that
5 the program was carried.

6 Q Are there any mathematical changes you would like
7 to make, to make -- sort of explain this further?

8 A Well, the only mathematical change really
9 necessary to make, -- I understand that there was a previous
10 report done from this same Nielsen, that is in hours. So,
11 if you want to compare the quarter-hours to the hours, you
12 take the quarter hours and divide by four. But it is
13 mathematically correct as it stands, but it is stated in
14 quarter-hours, and not hours.

15 Q You only listed the Donahue Show for Multi-Media,
16 is there any reason why you didn't list any other programs
17 for Multi-Media?

18 A There was an inconsistency problem in trying to
19 find some of the programs, and some of the programs were
20 listed by multiple title and there was confusion. So, the
21 decision was just made to take the Donahue Show, which was
22 the primary Multi-Media show at the time, and make a
23 direct comparison against the other named shows, just com-
24 paring named shows against named shows, rather than a
25 group of shows from one producer.

1 Q But is it your understanding that the Donahue
2 Show is the primary program of Multi-Media?

3 A I would consider the Donahue Show as being the
4 primary production of Multi-Media, yes.

5 Q What kind of comparisons can you make, as far as
6 viewing goes? And if you could go down a month, the first
7 month.

8 A If you look at it on an individual program basis,
9 I was rather fascinated by the closeness of viewing between
10 Donahue and the 700 Club, in the February period Donahue
11 reached 4.7 million; whereas the 700 Club reached 3.9
12 million.

13 Q And that is households?

14 A That is the quarter-hour households, households
15 per average quarter-hour.

16 Q What about the month of May?

17 A The month of May, just comparing again the same
18 two programs, Donahue reached 4,173,000 and the 700 Club
19 was actually ahead at that point with 4,536,000. It
20 switches slightly back and forth, month by month.

21 Q By viewing how does Donahue Show match up with
22 the group that you selected, devotional?

23 A As comparing Donahue to the total of those
24 selected, those selected -- I didn't do a percentage on it
25 -- those selected on a month by month basis are substantially

1 ahead, some months as much as twice the audience delivery.

2 MS. FORD: I would like to offer Devotional
3 Claimants' Exhibit 13 into evidence.

4 CHAIRMAN BRENNAN: It will be received.

5 (Whereupon, Devotional Claimants'
6 Exhibit 13 was received in evidence)

7 COMMISSIONER RAY: Excuse me, what is the date
8 of this study?

9 BY MS. FORD:

10 Q What is the date of this study?

11 A It is a 1982 study.

12 Q From the Nielsen special reports?

13 A From the Nielsen special reports, yes.

14 MS. FORD: That completes my direct examination
15 of Mr. Reid.

16 CHAIRMAN BRENNAN: Are there any questions at
17 this point from Commissioners?

18 (No response)

19 CHAIRMAN BRENNAN: Mr. Scheiner.

20 MR. SCHEINER: Sir, may I have five, perhaps 10
21 minutes recess? I would like to review with Ms. Ford a
22 couple of matters which, hopefully, we can stipulate to,
23 and in that way avoid considerably more time on the record.

24 CHAIRMAN BRENNAN: Excellent. We will take a
25 recess.

1 (Whereupon, a short recess was taken)

2 CHAIRMAN BRENNAN: The hearing will resume.

3 MR. SCHEINER: Mr. Chairman, off the record
4 Ms. Ford and I have agreed to the offer and acceptance
5 into evidence of Settling Parties Exhibits 22 and 23,
6 copies of which have been furnished to the Commissioners,
7 and other parties, and to the witness as well.

8 CHAIRMAN BRENNAN: They will be received.

9 (Whereupon, Settling Parties Exhibits
10 22 and 23 were marked for identification and received in evidence.)

11 MR. SCHEINER: In addition, Ms. Ford and I would
12 like to note a correction to Devotional Exhibit No. 12,
13 two stations listed on that exhibit as independents, No. 15,
14 KTLA and No. 25, WBBM, the classification should be changed
15 to network.

16 Those were the matters covered in our off the
17 record discussion.

18 CROSS-EXAMINATION

19 BY MR. SCHEINER:

20 Q Mr. Reid, when Dr. Clark was here he testified
21 with respect to the several entities which came within
22 the CBN umbrella.

23 MS. FORD: I am going to have to object, this
24 is way beyond the scope of our very limited rebuttal
25 exhibits.

1 MR. SCHEINER: I will not press this, Mr.
2 Chairman, I thought in light of the fact that Dr. Clark
3 was not fully informed with respect to the composition and
4 structure of CBN, in light of the fact that Mr. Reid in
5 his opening testimony described his position and responsi-
6 bilities in several of the CBN entities, I thought the
7 Tribunal would appreciate some amplification of Dr. Clark's
8 testimony.

9 If the Tribunal doesn't care to have it, I will
10 not press the point.

11 MS. FORD: I don't see the relevance.

12 CHAIRMAN BRENNAN: Does any Commissioner wish to
13 have Mr. Scheiner pursue this?

14 (No response)

15 CHAIRMAN BRENNAN: No takers, Mr. Scheiner.

16 MR. SCHEINER: Okay.

17 BY MR. SCHEINER:

18 Q Sir, turn to Exhibit 10.

19 A (Perusing documents)

20 Q Chairman Brennan asked you whether you had made
21 any comparison of the sports programs carried by WTTG and
22 WDCA. And my understanding is that you had not made any
23 such study, is that correct?

24 A That's correct.

25 Q Have you made any study of the other types of

1 programs, movies, series, children's programs carried on
2 those two stations?

3 A Yes, I have.

4 Q And what is the nature of the study you made?

5 A The nature of the study is I do a Top 20 market
6 comparison of all independents, as just part of my job in
7 programming the CBN independent stations. So, in regards
8 to the entertainment programming and the children's pro-
9 gramming of WTTG and WDCA, I am familiar with that program-
10 ming and have made studies of it, and have reasonable
11 knowledge of the movies and style of movies that the
12 stations run; the sit-coms and the style of sit-coms that
13 the stations run, and the children's programming, both
14 morning and afternoon. And am familiar and have looked
15 at the effect of the news and prime time on TTG, as compared
16 to the non-news entity of WDCA at prime time, those type
17 things I am familiar with, yes.

18 Q And what was the purpose of such studies?

19 A A competitive study to see which programming is
20 more competitive when programmed against another type
21 program, or a similar program.

22 Q And you made such studies with respect to all
23 categories of programs, except sports?

24 A I didn't intentionally leave out sports, it is
25 just that, basically, the CBN Continental stations are not

1 in the sports business. And we do not carry a large amount
2 of sports programming, so sports programming was a fairly
3 low interest to me, so I did not make any specific study
4 in sports.

5 Q And what was the reason for undertaking such
6 studies on behalf of Continental?

7 A For the purpose of better qualifying myself to
8 program the CBN Continental independent stations.

9 Q In such studies did you make a comparison of the
10 carriage of independents and -- cable carriage of independ-
11 ents in other markets?

12 A To cable carriage of independents in other markets?
13 No.

14 Q Sir, I refer you to -- this is in reference to
15 your testimony regarding Exhibit 11, I believe -- I refer
16 you to an exhibit introduced by the Settling Parties, it
17 is Exhibit No. 2 which sets out the program schedule of
18 station KXTX. Would you examine that, sir, and tell me
19 whether that correctly sets forth programs broadcast by
20 that station?

21 A (Perusing document) From my recall of 1982, that
22 is probably correct.

23 Q Did you not testify earlier that the reason for
24 excluding sports from such studies as you have made was
25 that Continental stations do not carry sports, and before

1 you answer that, on the schedule I have furnished you, I
2 note college basketball on Saturday, starting at 7:00
3 o'clock?

4 A (Perusing document) Not having the teams in
5 front of me, only having the title College Basketball,
6 I can state as a fact that in 1982, we had no continuing
7 agreement with any college to carry basketball on a regular
8 basis. And I could only speculate that this was a program
9 picked up by an occasional network feeding, not a portion
10 of a regular scheduled program, or a continuing sports
11 thing.

12 Q There has been earlier testimony to the effect
13 that KXTX moved over, or placed greater emphasis on secular
14 programs sometime in 1981, I believe, is that correct?

15 A I don't understand "placed a greater emphasis",
16 I don't really understand the question.

17 Q Well, let's take it in segments then. There
18 did come a time, did there not, when KXTX made some
19 rather substantial revisions in the types of programs
20 which the station broadcast?

21 A The station routinely makes program schedule
22 changes twice a year, in the spring and fall. And many
23 times a young appeal program, like a Battlestar Galactica,
24 will move out from a time period and a Little House on the
25 Prairie, an older appeal program, would come in. Is that

1 the kind of changes that we are talking about?

2 Q The kind of change that I am talking about is
3 a reduction in the amount of time devoted to religious
4 programs, and the consequent increase in the amount of time
5 devoted to secular programs.

6 A KXTX specifically has increased the amount of
7 entertainment programming, and in doing so, has decreased
8 the amount of religious or ministry programming over the
9 years. As to whether this specifically started in '81 or
10 '82, I couldn't be sure.

11 Q But in and around that period?

12 A Yes.

13 Q And what was the reason for the change?

14 A The reason for the change was to increase the
15 viewership of the station overall and to put the ministry,
16 religious programs in a more favorable environment, in order
17 for them to reach a larger audience.

18 Q Well, let's take a look at that, let's take a
19 look at Sunday on the schedule I refer you to. Do you
20 consider Wonder Woman and Battlestar Galactica, Lone
21 Ranger, Rifleman, Bonanza, Rawhide, Big Valley, Hardy
22 Boys, and Nancy Drew -- do you consider those programs
23 designed to attract audiences to the Jerry Falwell Show,
24 which appears on Sunday at 6:30?

25 A From my recall of the schedule, I think you just

1 mixed a little bit of our Saturday schedule with our
2 Sunday schedule, but it had a pretty good ring to it. I
3 think I will make a note on it.

4 Q Well, let's stop there for a minute --

5 A The answer to that --

6 Q Excuse me, did I misstate the lead-ins for Jerry
7 Falwell appearing on Sunday, January 31, 1982? If so,
8 correct it, please.

9 A The lead -- I think in the early part of the
10 day some of the programming was a little mixed, that's
11 okay. The lead-in program to Jerry Falwell was Hardy
12 Boys. And in front of Hardy Boys was Big Valley, so we
13 can talk specifically about those two shows. Hardy Boys
14 and Big Valley, playing together as a block, will deliver
15 and did deliver a substantial audience to KXTX. The
16 substantial audience was basically what we would call a
17 family audience, meaning that the audience -- and I am
18 going by recall, but it is pretty good recall -- the
19 audience would probably be approximately one-third men,
20 one-third women, and one-third children and teens combined.

21 And that to a ministry program, would be an
22 ideal lead-in, if that is your question.

23 Q Turning back to sports, and looking at this same
24 schedule, the second page, again the reference to college
25 basketball on Tuesday. And would your testimony be the

1 same with respect to that sporting event?

2 A (Perusing document) The testimony would be the
3 same, the testimony is that during that time period, this
4 is January of '82, we did not have a contract -- this is
5 college basketball -- we did not have a contract with a
6 college or professional sport for continuing sporting
7 events games. We did, as we were making the comparison
8 a while ago with WTTG, as does WTTG, occasionally pick up
9 sporting events from an ad hoc network, but it is not a
10 continuing practice, it is not a continuing part of the
11 schedule. It does not mean that every Tuesday at that
12 time, or even most Tuesdays at that time, will there be a
13 college basketball game on.

14 Q I note, if you will turn to the next page of the
15 same exhibit, CBN owned WXNE, Channel 25, and I note the
16 carriage of basketball Tuesday through Friday, and Saturday
17 as well. Would your testimony be the same, is that correct?

18 A Of all of the CBN stations, we have carried more
19 occasional sports in Boston, in most cases just due to the
20 competitiveness of programming in that market and the lack of
21 programming available, rather than putting an emphasis, or
22 a push on sports.

23 And, again, in Boston, we do not have an agreement
24 with a professional sports team, we do not have an agreement
25 with a college for the regular continuing carriage of a

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1 specific sport.

2 COMMISSIONER COULTER: Mr. Scheiner.

3 MR. SCHEINER: Yes, please.

4 COMMISSIONER COULTER: Could you repeat how you
5 pick up these sports programs?

6 THE WITNESS: There are many -- oh, literally
7 there are dozens of people who call their self ad hoc
8 networks, they put together the University of Maryland versus
9 Kentucky, which is a non-network game, has no national
10 network coverage, and they lease satellite transponder time
11 and sell a portion of the advertising in it, and then they
12 get on the telephone and start calling TV stations to get
13 or attempt to get them to clear the basketball arbitrarily
14 from the University of Maryland versus Kentucky. And the
15 ad hoc network retains a portion of the advertising to
16 spots that they sell, and the station has a portion of the
17 spots that they can sell.

18 And you have no long-term commitment with these
19 people. It is basically either on a game-by-game basis,
20 or you may commit to three or four games. It is what I
21 consider occasional programming, and not a part of the
22 master plan of the stations' programming; whereas -- I
23 don't want to keep rambling on, -- whereas if you commit
24 to a specific professional or college sporting team and
25 you commit for a season, or more seasons, then it is not

1 it is not occasional, you are committing to a specific
2 schedule of these sporting events and how they fit into
3 your schedule.

4 With the occasional network, they offer you a
5 game, if the time period happens to fit, if you have a weak
6 movie that night, and if it doesn't give you any problems,
7 you take it. Otherwise, you don't take it, and they go
8 somewhere else.

9 COMMISSIONER COULTER: But these things are always
10 floating around?

11 THE WITNESS: Oh, yes.

12 COMMISSIONER COULTER: So, if you have a spot like
13 that you want to fill, you know there will always be some-
14 thing available, as far as sports is concerned, is that
15 essentially true?

16 THE WITNESS: If you don't mind how low appeal
17 you go in the sporting events. I mean, we have carried
18 in Boston, we have carried in Boston Harvard rugby games.

19 COMMISSIONER COULTER: That is pretty low.

20 (Laughter)

21 THE WITNESS: And Nielsen doesn't even put an
22 asterisk, they just leave a blank place across the page.
23 But it was on an experimental basis.

24 COMMISSIONER COULTER: Nielsen has good judgment.

25 (Laughter)

1 COMMISSIONER COULTER: But you understand my
2 question, there is no dearth, you don't have to worry about
3 being able to fill a spot, if you want, for one reason, or
4 another to carry sports?

5 THE WITNESS: Oh, that's correct.

6 COMMISSIONER COULTER: How long in advance do
7 you plan your programming?

8 THE WITNESS: We start with five years.

9 COMMISSIONER COULTER: Five years?

10 THE WITNESS: Five years. And we plan the basic
11 program schedule, we plan -- this is for the stations, we
12 plan the basic program schedule five years in advance.
13 For example, and I will talk independents in general,
14 because it is pretty well true with all independents --
15 programs are being sold right now in syndication that will
16 be available in four to five years. And you have to plan
17 where you are going to put this show, you have to plan in
18 advance which shows you presently have that you are going
19 to renew.

20 So, you end up with basically a five-year plan,
21 then each year you revise the next year's plan. So, five
22 years would be general, and then at any point 12 months
23 in advance would be pretty specific. But in regards to
24 which actual movie title is going to run this Saturday at
25 8:00 o'clock, and which title of Hogan's Hero is going to

1 run at 10:00 o'clock, those are pretty well planned on a
2 quarter by quarter basis. But with the absolute final dead-
3 line for changes being really sort of dictated by TV Guide
4 that has a three-week window, and all changes have to be
5 in TV Guide 21 days from next Thursday, whatever next
6 Thursday is.

7 BY COMMISSIONER COULTER:

8 Q But when you are planning, say, your five-year
9 or your one-year plan, or even down to your quarter plan,
10 do you leave spots open for sports?

11 A No.

12 Q So, you don't lock in sports until the 21-day?

13 A That's correct. We pass on most sporting events
14 offered to us, than we commit to, from the occasional
15 networks, because it is our basic programming philosophy --
16 and you need to really understand this -- it is our basic
17 philosophy that people watch independent stations as a
18 countermeasure to networks. And you get loyalty from
19 people in watching whether your program is Jeffersons, or
20 whether your program is M*A*S*H, you get loyalty in that
21 program being there every day at the same time, it becomes
22 habit.

23 And if you bump M*A*S*H out two times in a month,
24 and start an early basketball game, you may or may not
25 get a larger audience with the basketball game, but you

1 definitely have broken the viewers' habit with M*A*S*H.

2 And we attempt not to do that.

3 Q You say you blocked out spots for movies a year
4 ahead of time?

5 A That's correct.

6 Q And then you lock it in on the quarter. Why
7 don't you block out time the same way for sports?

8 A Because the occasional networks -- you have to
9 look at the ad hoc and the occasional networks and the way
10 they work. A quarter of a year they can't give you a
11 schedule, you know, they can tell you "I am going to have
12 this team, and I am going to have this team", but they
13 can't tell you who the opponents are going to be.

14 Q Okay, but when you spot in sports are you putting
15 it, generally, in time spots that you allowed for movies?

16 A Yes, that's what you do.

17 Q And you make that decision 21 days ahead of time?

18 A Yes, approximately 21 days. It would have to
19 be 21, or it wouldn't make TV Guide.

20 Q In the back of your mind you don't allow so
21 much time for sports?

22 A No, sir, we do not.

23 COMMISSIONER COULTER: Thank you, Mr. Scheiner.

24 BY MR. SCHEINER:

25 Q I want to move off of sports, and simply ask you

1 to note that in Settling Parties' Exhibit 2, in the volume
2 I gave you, WANX for 1982 reported a total of 3.9 percent
3 of its time devoted to major sports. Is that fairly
4 typical of the programming --

5 A Let me -- (perusing documents) -- I didn't prepare
6 this, this is the first time I have seen this. First of
7 all, I don't know the definition between major sports and
8 minor sports. And what I would consider major sporting
9 events, if that is also 1982, and I think the circled
10 figure on the right-hand side is our then Atlanta station,
11 I don't think we carried any major sporting events in 1982,
12 by my definition of major sporting event.

13 Q The very source that you relied upon, the Nielsen
14 study.

15 A Okay, what is Nielsen's definition of major and
16 minor sports?

17 Q You would have to refer to Nielsen for that.
18 Let's be clear on what your position is, it is the fact
19 that in substantial, and even the majority of the time
20 CBN stations, let's take KXTX, for example, the majority
21 of its time is devoted to secular programs, movies, series,
22 a limited amount of sports, and other types of secular
23 programs. It is correct, of course, that CBN is laying no
24 claim in this proceeding to the share of the cable royalty
25 funds based upon such other types of programs which the

1 station carries, is that correct?

2 A I don't know the answer to that.

3 Q Turn to your exhibit No. 13, a comparison of
4 cable viewing of Donahue and selected Devotional Claimants
5 programs.

6 A (Perusing documents)

7 Q You would agree, would you not, that this exhibit
8 is limited entirely to viewing and contains no other informa-
9 tion with respect to such Tribunal criteria as harm, benefit
10 and marketplace?

11 MS. FORD: Would you repeat the question, please?

12 BY MR. SCHEINER:

13 Q You would agree with me, would you not, that this
14 exhibit is limited to the comparison of viewing of the
15 respected programs and contains no information that might
16 be helpful in the application of the Tribunal's criteria
17 with respect to harm, benefit and marketplace relied upon
18 by the Tribunal in determining respective shares of the
19 award to claimants in this proceeding?

20 MS. FORD: I would have to object on two grounds,
21 one, it is beyond the scope of this exhibit, which is a
22 rebuttal exhibit; and two, that it calls for a legal
23 conclusion from this witness.

24 CHAIRMAN BRENNAN: Mr. Schiner.

25 MR. SCHEINER: Presumably, this exhibit was

1 offered to show the revenue values of selected devotional
2 programs and Donahue. I would like the record to be clear
3 and for this witness to acknowledge, that it does not
4 address, and it is of no help on the variety of factors
5 employed by the Tribunal in making its awards to claimants.

6 CHAIRMAN BRENNAN: The objection is overruled.

7 BY MR. SCHEINER:

8 Q Can you answer the question?

9 A No, I cannot directly answer the question. This
10 report is a viewing report, that portion of it I can
11 answer.

12 Q Perhaps the difficulty is with the question, do
13 you know what is meant by the Tribunal's criteria in making
14 awards?

15 A Not really.

16 MR. SCHEINER: I have no further questions.

17 CHAIRMAN BRENNAN: Counsel for Multi-Media, would
18 you please identify yourself?

19 MS. WIMBLEY: I am Karen Wimbley, and I represent
20 Multi-Media Program Productions before the Tribunal.

21 CROSS-EXAMINATION

22 BY MS. WIMBLEY:

23 Q Do you know whether Multi-Media relied in anyway
24 on the MPAA study in its presentation before the Tribunal?

25 A No, I do not know.

1 Q Do you have any background in statistics?

2 A For at least 15 years of my career the research
3 department of the syndication company that I worked for,
4 or the TV stations I was at, the research department came
5 under my direct supervision.

6 Q Would it surprise you to know that because of
7 Multi-Media regards the MPAA study as being unreliable,
8 it doesn't rely its presentation on the MPAA data, and
9 instead relies on rating information and the specialized
10 nature of its programming, such as news, information,
11 country music and children's programs and the quality of
12 these programs?

13 A No.

14 MS. WIMBLEY: I have no further questions.

15 CHAIRMAN BRENNAN: Ms. Ford.

16 MS. FORD: I have just a couple of questions on
17 redirect.

18 REDIRECT EXAMINATION

19 BY MS. FORD:

20 Q Chairman Brennan had asked you whether WDCA had
21 sports, and then we had some discussion as to the amount of
22 sports and the kinds of sports that were carried on KXTX.
23 And you had a question, also, about the major sports on
24 WANX. What kind of sports were carried on WANX in 1982,
25 to your knowledge?

1 A WANX, again, carried ad hoc network sporting
2 events, sporting events that were put together and packaged
3 by independent producers, with two to 1040 sporting events
4 maximum in any package.

5 Q Did WANX carry any major league baseball?

6 A No.

7 Q Did it carry any major football, or hockey?

8 A Well, we are back into major, WANX did not carry
9 any professional sports, period, in 1982. And they did not
10 carry any what I would consider major college sporting
11 events.

12 Q By major college, do you mean major regional
13 leagues, or -- what kind of teams played on WANX?

14 A We carried some college football games on the
15 delayed basis on Saturday night; we carried a portion of
16 the ACC schedule that was not carried by the other inde-
17 pendent in the market, WATL. Basically, we picked up an
18 occasional leaving, here or there.

19 Q I have put before you a Settling Parties exhibit,
20 the one that was referred to before, which breaks down the
21 types of programming for the KXTX and WANX. Do you have
22 another copy that you could look at?

23 A (Perusing documents)

24 Q This is Settling Parties Exhibit 1, and it is
25 the last page of Exhibit 1. This announces the CBN-owned

1 station programming.

2 A (Perusing document)

3 Q What is the percentage of sports that was carried
4 on KXTX in 1982, according to this Settling Parties'
5 exhibit?

6 A In 1982, KXTX, the total percentage between
7 major sports and minor sports would be .5 percent.

8 Q Was that an increase or a decrease from 1981?

9 A It was a decrease from 1981.

10 Q What was the percentage of devotional programming
11 on KXTX in 1982, according to this study?

12 A According to their study, the devotional program-
13 ming was 18.3 percent.

14 Q Was that higher or lower than .5 percent?

15 A It is substantially higher.

16 Q Let's look at WANX, -- just for a second, com-
17 paring the devotional programming for 1981 and 1982 on
18 KXTX, did it increase, or decrease?

19 A From 1981 to 1982, it increased.

20 Q Let's turn now to the comparison of sports and
21 devotional programming on WANX, what was the percentage of
22 sports on WANX, according to the Settling Parties, in 1982?

23 A The sports for 1982, combined major and minor,
24 would be 3.1 percent, as compared to 17.1 percent for
25 devotional.

1 MS. FORD: I have no further questions of this
2 witness.

3 CHAIRMAN BRENNAN: Thank you, Mr. Reid, for your
4 appearance and your testimony.

5 (Whereupon, the witness was excused.)

6 CHAIRMAN BRENNAN: Our next witness is Mr. Hohman
7 who has been previously sworn.

8 Whereupon,

9 THOMAS HOHMAN

10 was called as a witness and, having been previously sworn,
11 was examined and testified as follows:

12 MR. SCHEINER: Mr. Chairman, it was called to
13 my attention that the exhibits which I identified as 20
14 and 21 are misnumbered, they should instead read Exhibits
15 22 and 23; 22 is the shorter exhibit with nine stations on
16 it and 23 is the one which bears the legend Rank of Systems
17 and Subs.

18 MS. FORD: I would like to give a preliminary
19 statement. Mr. Hohman is here for two purposes, one is
20 to sponsor these exhibits, the final exhibits that we have
21 before us; and also, after direct and cross, and any redirect,
22 he will be available to discuss the CBN Satellite Channel
23 which you had requested.

24 DIRECT EXAMINATION

25 BY MS. FORD:

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1 Q Mr. Hohman, could you state for the record your
2 name and your title?

3 A Tom Hohman, Vice President of Affiliate Sales,
4 CBN Cable Network.

5 Q Would you like to correct the spelling of your
6 name, in my letter dated July 30th, 1984?

7 A The spelling is H-o-h-m-a-n, no "l".

8 Q Mr. Hohman, what do you do in this position as
9 Vice President of Affiliate Sales?

10 A Affiliate Sales or Affiliate Relations, the
11 primary responsibility is to market CBN Cable to the
12 cable operators on a national basis.

13 Q And before this position, what did you do, before
14 you are doing what you do now, what did you do?

15 A I had 17 years service with Motorola Communications
16 and Electronics in various marketing and sales staff
17 positions.

18 Q Are you familiar with the Settling Parties'
19 Exhibit No. 3, it is called Multi-Channel Research, it is
20 three pages in length and it is a Multi-Channel News
21 survey conducted in 1983?

22 A Yes, I am.

23 Q Could you turn to the second page of that exhibit,
24 the second page of text, I believe it is the second question?
25 Which basic services are most valuable and least valuable?

1 A Yes.

2 Q What does it say about CBN in that exhibit?

3 A CBN in that particular question the most valuable,
4 the sample was too small to rate and it was 8 percent viewed
5 it as least valuable.

6 Q Could you turn now, and I would like to identify
7 for the record Devotional Claimants Exhibit 14. It is a
8 six-page exhibit, the cover page says Multi-Channel News,
9 Multi-Channel ELRA Group Survey, So You Think You Know What
10 Your Subscribers Like.

11 (Whereupon, the document was marked
12 for identification as Devotional
Claimants Exhibit No. 14.)

13 BY MS. FORD:

14 Q Could you explain to the Tribunal what the purpose
15 of this study was, and when it was conducted?

16 A This was a study conducted in November of '82,
17 and the purpose was to compare the value of cable television
18 programming from the points of view of the cable subscribers
19 versus cable operators, and it was published in the December
20 27th issue of Multi-Channel News, 1982.

21 Q If you could turn to the last page of this
22 exhibit, please, and explain this question and the responses
23 to the question?

24 A That's referenced to Table 5?

25 Q That's correct.

1 A The question was How much is the programming
2 worth. They basically were asking the cable -- the sub-
3 sscribers what percent of your bill would you be willing to
4 spend just to receive your favorite channel, that is what
5 the question was directed at.

6 This particular table indicates that for CBN
7 viewers were willing to spend \$8 of their bill to view
8 CBN. In fact, if you look down beyond, on that table,
9 you will see that that study shows that \$8 a month is
10 higher than what they would be willing to spend for networks
11 or the super stations, for that matter.

12 Q Now, you want to clarify that this question is
13 asked of those --

14 A This is directed to those, who much they would
15 be willing to pay for their most favorite channel.

16 Q And if you could look back to the two pages
17 preceding the table, what is this portion of the study,
18 the portion saying CBN?

19 A Those were the comments that were subscribed
20 from the viewers as to favorable comments, and they pretty
21 much --

22 Q Were these reasons why cable subscribers wanted
23 the CBN channel, is that what this means?

24 A Exactly, what they felt about CBN, these were
25 favorable comments dealing with the format, primarily I

1 guess of the inspirational nature. I don't know if you
2 want me to read some of these --

3 Q Sure, go ahead.

4 A It has more on it that I like; it has an external
5 dimension that the other stations don't have; they cover
6 many subjects; we like to see the 700 Club; I enjoy watch-
7 ing religious programming; basics for everyday life;
8 religious, good values, needs to be watched more often.
9 I enjoy religious programs that have a strong story and a
10 meaning. It is non-violent, always has something inspir-
11 ing; if there wasn't CBN, I would not get cable. I like
12 to listen to the gospel music and singing, and I like to
13 look at those shows; good clean shows. I feel their
14 programs are safe for my children, those kinds of comments.

15 COMMISSIONER COULTER: Could I have a clarifica-
16 tion, this is for the satellite network?

17 THE WITNESS: Yes, this makes reference to the
18 CBN Cable Network.

19 COMMISSIONER COULTER: That is all that is meant
20 here?

21 THE WITNESS: Yes, the survey was for cable.

22 BY MS. FORD:

23 Q On the responses to this exhibit, are the programs
24 on the CBN satellite channel the same programs that are
25 carried as distant signals? In other words, are the same

1 programs on the CBN Satellite channel the same programs,
2 the religious programs, the 700 Club, Another Life, are
3 they the same as the ones that are carried on independent
4 stations?

5 A Yes.

6 Q Are the predominance of these responses geared
7 toward the secular programming on the CBN satellite channel,
8 or the devotional programs?

9 A I think the predominance is the ones with the
10 inspiration and devotional.

11 MS. FORD: I would like to offer Devotional
12 Claimants Exhibit 14 into evidence.

13 CHAIRMAN BRENNAN: It will be received.

14 (Whereupon, Devotional Claimants'
15 Exhibit 14 was received in evidence)

16 CHAIRMAN BRENNAN: Commissioner Ray.

17 COMMISSIONER RAY: One question, on Table 5,
18 page 15, I notice the only independent distant signals
19 listed is WTBS.

20 THE WITNESS: And WGN is the third from the bottom.

21 COMMISSIONER RAY: The two super stations.

22 THE WITNESS: Yes, sir.

23 COMMISSIONER RAY: Do you think the subscribers
24 were aware of what a distant signal was, or is?

25 THE WITNESS: Well, I think subscribers are aware

1 of the programs they watch and the networks. I don't think
2 they are referred to as distant signals. The narrative
3 in the report refers to them as distant signals, distant
4 stations.

5 COMMISSIONER RAY: WTBS and WGN, in your opinion,
6 would they be representative of distant signals that most
7 subscribers in this survey received?

8 THE WITNESS: Absolutely.

9 COMMISSIONER HALL: What was the average price
10 that these people paid for their cable service?

11 THE WITNESS: It varies, that is why they have
12 the average percent of the cable bill in that one column,
13 because it varies throughout the country what a basic
14 cable service might charge.

15 COMMISSIONER HALL: Did you ask them what they
16 would pay over and above their normal service amount for
17 their particular shows? Just exactly what did you ask them?

18 THE WITNESS: Well, first of all, I didn't con-
19 duct this survey, this is an independent survey, conducted
20 for Multi-Channel News, which is a trade -- major trade
21 publication of the cable industry. And the list of the
22 questions are listed in the report, in the entire report.

23 MS. FORD: Devotional Claimants Exhibit 15 is a
24 four-paged exhibit, the first page says Multi-Channel News
25 Survey, Cable System Operators Regarding Basic Programming

1 and Advertising, April 1984.

2 (Whereupon, the document was marked
3 for identification as Devotional
4 Claimants Exhibit No. 15)

5 BY MS. FORD:

6 Q We have identified for the record Devotional
7 Claimants Exhibit 15. Could you turn to the first textual
8 page entitled Basic Programming?

9 A (Perusing document)

10 Q And read the question, please?

11 A The question presented there reads, "I am going
12 to read you a list of all the non-pay services that are
13 currently available for each one please tell me whether or
14 not your system carries it". Again, that was a question
15 directed to cable operators.

16 Q What percentage of cable operators carried CBN
17 in 1983?

18 A 55 percent.

19 Q And what percentage carried CBN in 1984?

20 A 70 percent.

21 Q Did the percentage of religious programming change
22 from 1983 to 1984?

23 A No.

24 Q Let's turn to the next page, if you could read
25 question three, and the narrative after question three,
please?

1 A "Thinking about all the basic services your
2 system carries, which two services do you consider to be
3 the most valuable to you, as a system manager? "The two
4 most valuable channels to system managers were WTBS and
5 ESPN, with 56 and 54 percent respectively. In a distant
6 second place were CNN and WGN, both at 26 percent. The
7 1984 survey results cannot be compared with the 1983
8 results because a different method of calculation was
9 employed. This method provides a more accurate reflection
10 of operator opinions about the less widely carried basic
11 services.

12 Q The 1983 study, was this the study that was
13 placed in evidence as 1982 Settling Parties Exhibit 3,
14 to your knowledge?

15 A Yes.

16 Q If you could explore for the Tribunal the most
17 valuable and least valuable, the top two most valuable and
18 the two least valuable services? How does CBN fare in
19 this survey?

20 A Well, reading down that list, where the table
21 is presented under Question Four, somewhere a little beyond
22 halfway down, CBN as most valuable has a 10 percent factor,
23 again, with 105 responses.

24 Q Are you familiar with the programming service of
25 Arts and Entertainment?

1 A Yes.

2 Q Would you explain to the Tribunal what Arts and
3 Entertainment is?

4 A Arts and Entertainment is a channel that is on
5 primarily in the evening with plays, ballets, the perform-
6 ing arts.

7 Q And what percentage of the cable operators that
8 responded viewed Arts and Entertainment in its top two
9 most valuable category?

10 A Two percent of those rated that as the most
11 valuable.

12 Q If you could turn please to question eight of
13 the same survey.

14 A (Perusing document)

15 Q What percentage -- if you could explain what the
16 findings were as to CBN in this question.

17 A The question simply is Has your system added any
18 basic services in the last 12 months? And the answer shows
19 that 37 percent of the operators mentioned that they had
20 added a basic service in the last 12 months, and the leading
21 services were Nashville, 29 percent; MTV at 26; Lifetime
22 at 26; CBN at 24 percent and CNN Headline at 20 percent.

23 Q Can you explain for the Tribunal what MTV is,
24 in case they are not aware?

25 A MTV is the music-television, video-music format

1 of rock music.

2 Q What percentage in a Monday through Friday, what
3 percentage of programming is devotional in nature, or CBN
4 produced on the CBN Satellite Channel?

5 A Monday through Friday, you mean on our normal
6 schedule?

7 Q Yes.

8 A CBN -- approximately 30 percent of our programming
9 is inspirational in nature.

10 Q What about prime time?

11 A During prime time it is higher, it is about 37
12 percent.

13 MS. FORD: I would like to offer Devotional
14 Claimants' Exhibit 15 into evidence, and that would conclude
15 by direct examination.

16 CHAIRMAN BRENNAN: It will be received.

17 (Whereupon, Devotional Claimants'
18 Exhibit No. 15 was received in evidence)

19 CHAIRMAN BRENNAN: Any questions by Commissioners?

20 EXAMINATION BY TRIBUNAL

21 BY COMMISSIONER COULTER:

22 Q Mr. Hohman, what we are being asked to do with
23 your testimony is draw conclusions about the value to cable
24 operators of CBN programming as it appears upon the regular
25 independent stations, and not the programming that comes

1 specifically over the air from the satellite service, are
2 you aware of that?

3 A Yes.

4 Q Do you understand my explanation?

5 A Yes.

6 Q The testimony that just preceeded yours, basically,
7 explained how much care you put into your programming in
8 order to produce as attractive environment as possible for
9 the devotional aspect. My question is are we able to make
10 a judgment on the attractiveness of CBN programming as it
11 occurs on regular independent television stations, and
12 therefore, is picked up as a distant signal by cable systems,
13 are we able to determine that comparative value by looking
14 at the popularity of the CBN Satellite Service?

15 In other words, to what extent is the relative
16 popularity of satellite service due to this great care that
17 you devote to its entire programming, and to what extent
18 does not the -- is not the relative value of the signals
19 that CBN is on, on regular independent stations, determined
20 by the entire programming of those signals?

21 And, therefore, how relevant is this comparison
22 that you are -- how relevant are these values that you are
23 showing as placed upon the satellite service?

24 Am I clear about my question?

25 A I think I understand it.

1 Q Could you expand on that?

2 A Well, I guess what I can say is the purpose of
3 my testimony was to respond to the question that said that
4 there was no response from the cable community as to the
5 favorableness of CBN Cable Network. That is primarily that
6 point. And I speak, specifically, I think the combined
7 testimonies of Mr. Reid and myself, speak to the combined
8 question.

9 Q I, unfortunately was not here during part of the
10 devotional case, so I may be asking some questions that
11 may be a little out of turn. Okay, I understand what your
12 testimony was designed to do, but how would you place that
13 in the framework that I have attempted to outline?

14 How useful is it, as far as establishing values
15 upon the CBN programming appearing on regular independents?

16 A Well, I think probably the best way I could
17 answer that, I am not sure it will answer, but I think
18 viewers state what they like to watch through the ratings,
19 and through the popularity that we have noticed of CBN
20 being added across the country; significant growth through-
21 out the last year, and the year before that, and continued
22 growth.

23 And that is what I can address, I think viewers
24 are the same. And Mr. Reid addressed the viewing habits
25 of how they program a distant station, or an independent

1 station. And I think that answered that question well, and
2 it addresses your point, as well, I think. As well as the
3 cable network, the viewers have definitely spoken in terms
4 of the programming and the mix, and type of format that
5 CBN offers on satellite. And that is pretty much what I
6 can address.

7 Q You feel that those attitudes reflect the general
8 judgment, and therefore, would hold also for CBN program-
9 ming picked up from regular independents, although it is
10 not surrounded by all this other programming that CBN takes
11 a lot of care in putting on its signal?

12 A I think it is reflective of exactly what is
13 happening across the country, as evidenced by some of the
14 super stations in changing their programming line-up to
15 mirror what CBN is doing, because it has been, in fact,
16 successful with the viewers.

17 Q Could you outline that line-up?

18 A The type of programming, in general. I can give
19 you specifics, for example, on WTBS where they moved into
20 more family type programming; Little House on the Prairie,
21 for example. The kind of program that you would find --

22 Q I thought that has been their outlook for a long
23 time?

24 A WTBS?

25 Q Yes.

1 A I think most people saw them as a super station
2 with sports and the movies, but I think you will see some
3 of the other networks in cable, particularly -- well, WGN,
4 as well, and WOR, and USA Cable Network, responding with
5 the kinds of programming that they are today, more family-
6 oriented seems to be a trend.

7 Q Are they adding any devotional programming?

8 A Well, WTBS, of course, has many devotional
9 programs, you can see Jerry Falwell, the Old Time Gospel
10 Hour on WTBS every Sunday night, as well as Oral Roberts
11 and others.

12 Q So, you feel that they have -- are they adding
13 more, or --

14 A I don't really have a feel for that particular
15 one, WTBS directly, but I think most of them provide that
16 kind of programming, at least on the weekend schedule.

17 COMMISSIONER COULTER: Thank you.

18 CHAIRMAN BRENNAN: Commissioner Ray.

19 BY COMMISSIONER RAY:

20 Q Mr. Hohman, of the basic services added by
21 operators you list Nashville, MTV, how many of these
22 services distributed at no charge to the operators, the
23 ones that are listed here?

24 A Of those listed in that question eight, I believe
25 that is the question you are referring to --

1 Q Yes, Question eight.

2 A The Nashville Network, there is no charge for;
3 Lifetime and ourselves. And actually CNN Headline, there
4 is a minimal charge for it, in fact no charge for it, they
5 are carrying the other two services that Turner Broadcast-
6 ing offers. So, if you have WTBS and CNN 1, it is my
7 understanding that Headline is also free.

8 So, four out of the five would be free.

9 Q One last question, in this survey if you have
10 the information available to you from the survey, the
11 subscribers who would be willing to pay X-amount of dollars
12 for CBN programs, then why is the service distributed free?

13 A Well, it is provided free to the cable operator.

14 Q Yes, to the cable operator.

15 A We provide it free to the cable operator. This
16 particular question addresses what the subscribers -- I
17 think it shows the value of the programming to the sub-
18 sscribers, and their willingness to pay the cable operator.
19 In effect, they do pay the cable operator for it because
20 they pay for basic cable.

21 Q Well, perhaps I don't quite understand, I guess
22 this is a business judgment, but if you as a programmer
23 have information that a cable subscriber is willing to pay
24 X-amount of dollars for that particular programming, why
25 would the program supplier supply that program to the cable

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1 operator free?

2 A That is a good question. In fact, right now we
3 are studying that fact, and doing some studies as to
4 charging the cable operator. We do have a plan that we
5 are implementing that will charge the cable operator for
6 those cable operators that tier CBN, that is that puts them
7 up on a higher level, where they charge a specific cost
8 to the subscriber.

9 We entered the cable business in 1977 as a free
10 basic service, and still consider ourselves as basic
11 service. And many of our viewers have indicated the
12 importance of us staying on basic, so that they would only
13 be charged that basic rate, and not have to pay an additional
14 rate to go up a tier.

15 Q Well, Mr. Hohman, do you feel that because a lot
16 of cable subscribers can get the programming by distant
17 signals, makes it more difficult for you, as a cable
18 network, to sell the programming?

19 A Well, our cable penetration still isn't that high
20 in the country, it is still under 40 percent. So, there
21 are many markets that of course don't receive cable, so
22 that speaks to any distant signal, or broadcast station
23 that carries, for example, the inspirational programming.

24 Q What percentage of the country that is covered
25 by either over-the-air television, cable network, -- no,

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1 I'm sorry, let me start again.

2 What percentage of the country would be covered
3 by a combination of cable network, over-the-air broadcast,
4 and distant signals of the CBN programming?

5 A We cover on cable 29 percent of all TV households
6 in the universe, in the nation.

7 Q That is a combination of satellite and distant
8 signal?

9 A No, that is just satellite. I can't speak to the
10 number of what the distant signals would be.

11 Q Well, I am sure it is somewhere in the record,
12 so I will check it out.

13 COMMISSIONER RAY: Thank you, sir.

14 CHAIRMAN BRENNAN: Commissioner Coulter.

15 BY COMMISSIONER COULTER:

16 Q Pursuing a question that Commissioner Ray just
17 asked you, sir. What proportion of those carrying CBN
18 -- what proportion of the cable systems carrying CBN put
19 it on a tier?

20 A Less than 5 percent.

21 COMMISSIONER COULTER: Thank you, sir.

22 CHAIRMAN BRENNAN: Off the record.

23 (Discussion off the record.)

24 CHAIRMAN BRENNAN: We will recess until 2:00 p.m.

25 (Whereupon, the luncheon recess was taken at 12:00
noon.)

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AFTERNOON SESSION

(2:05 p.m.)

CHAIRMAN BRENNAN: The hearing will resume.

Mr. Scheiner?

CROSS-EXAMINATION

BY MR. SCHEINER:

Q Sir, in your direct testimony, you summarized your background very briefly, did you not? Let me strike that question.

Can you tell us, please, what background you have in conducting surveys of viewers, cable systems, their attitudes. Do you have any background in survey work?

A We have conducted a few of our own in-house surveys. We have a survey being conducted by our agency in New York, but I haven't personally developed any survey, no.

Q And is it then correct that you are not in a position to give an informed opinion on what constitutes a proper sample, or an acceptable response to a survey?

A I don't know what requirements it takes to respond to a survey that's been printed than to identify the data and read the questions and the answers. That's basically what I've done.

Q If I were to ask you, sir, whether the sample -- or the survey, rather, reflected in your Exhibit 14 is an

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1 adequate sample, do you have any professional formal
2 qualifications that would qualify you to answer that
3 question?

4 A I would say a sampling of 100 out a potential
5 6,000 is a recognized sampling for the -- it's basic mar-
6 keting. It doesn't require a degree in surveys to recognize
7 that.

8 Q But you do not have such a degree, that is cor-
9 rect, is it not?

10 A A degree in surveys, no, I don't.

11 Q Nor do you have any professional training in the
12 conduct of surveys, correct?

13 A I suppose that's true, yes.

14 Q Nor do you have any formal training in what
15 constitutes an acceptable and reliable response, is that
16 correct?

17 A I don't know what constitutes an acceptable
18 and reliable response.

19 Q You are in agreement with me?

20 A I don't know what that means, what an acceptable
21 response is.

22 MS. FORD: Maybe I could clarify or explain the
23 question just briefly. These two exhibits were placed
24 into evidence to rebut a specific Multichannel News exhibit
25 that was also placed into evidence by the Settling Parties,

1 and I don't believe there was any testimony at that time
2 as to the sample size or whatever of that survey, but the
3 same organization, Multichannel News, sponsored all three
4 surveys.

5 MR. SCHEINER: If there was no testimony on it,
6 Mr. Chairman, it was only because no questions were put
7 to the sponsoring witness, unlike my questions to Mr.
8 Hohman. But I think I've made my point, and I would like
9 to go forward.

10 BY MR. SCHEINER:

11 Q Tell me once again, what is your position with
12 CBN Cable Network?

13 A Vice President of Affiliate Sales.

14 Q And do you have any responsibilities with the
15 stations owned by CBN?

16 A No, I don't.

17 Q Do you have any familiarity with the manner in
18 which the stations are programmed?

19 A The familiarity that I would have is, the program
20 manager is the same program manager that we have for the
21 cable network and, therefore, any joint meetings that we
22 would have concerning programming I would be involved in,
23 but not directly for the O&Os.

24 Q You testified with respect to the religious or
25 devotional content of the CBN Network feed, do you recall

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1 that -- your testimony? My notes indicate that you said
2 that the CBN Network feed was approximately 30 percent
3 overall and 37 percent in prime time with respect to
4 religious or devotional programming?

5 A That's right.

6 Q Are you aware of the evidence of record which
7 indicates that KXTX has approximately 18 percent of its
8 time devoted to religious or devotional programming?

9 A I believe I heard that this morning.

10 Q Other than that, do you have any independent
11 knowledge of the amount of religious or devotional time
12 on KXTX?

13 A No.

14 Q Do you know -- strike that. Is it correct that
15 your objective in your position with CBN Cable Network is
16 to maximize the viewing and the revenues from that opera-
17 tion?

18 A Maximize the viewing and the carriage of CBN
19 Cable Network to the cable operators.

20 Q Let me ask you, when you attempt to get the cable
21 system to retransmit the cable network programs of CBN,
22 how do you regard the carriage or the broadcast of CBN
23 programs over a local broadcast station in the same com-
24 munity with the cable operator? Is that a bar to your
25 feeding that program to the cable operator?

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1 A Are you talking about on an individual syndicated
2 basis? I'm not sure I understand your question.

3 Q I'm giving you a situation which I am sure has
4 occurred many hundreds of times. A CBN program is avail-
5 able in a local community because it is carried by a tele-
6 vision broadcast station.

7 There is also in the same community the cable
8 system. When you look towards maximizing your audience
9 and your revenues, would you solicit that cable system to
10 carry the network, or would you not because the programs
11 are presently being carried by the television broadcast
12 station in that community?

13 A From a cable standpoint, we would solicit that
14 cable operator to carry CBN.

15 Q And in fact, you do so, do you not?

16 A We certainly do.

17 Q And the duplication of programming is not a
18 concern -- is not a bar to the solicitation of that cable
19 system in the hypothetical market that I've outlined for
20 you?

21 MS. FORD: I think I'm going to object, only
22 because this witness is here on specific rebuttal testimony,
23 and I think Mr. Scheiner is trying to retry his direct
24 case. He had plenty of opportunity to do so when Mr. Clark
25 was on the stand, and this rebuttal phase, as I understand

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1 it, is not intended to shore up a weak case.

2 It is very narrow rebuttal exhibits. We tried
3 to keep it as narrow as possible to follow the wishes of
4 the Tribunal, and I was under the understanding that that
5 was what was going to happen. I didn't realize that we
6 were going to be able to shore up cases.

7 CHAIRMAN BRENNAN: Putting aside Ms. Ford's
8 adjective, Mr. Scheiner, what is your response?

9 MR. SCHEINER: I did not intend to address that
10 in any event. I think it is proper rebuttal within the
11 context of the questions put particularly by the Tribunal.

12 CHAIRMAN BRENNAN: That's always an argument of
13 last resort. The objection is overruled.

14 BY MR. SCHEINER:

15 Q Would you answer the question, please?

16 MS. FORD: Do you know what the question was?

17 THE WITNESS: Yes, I think I remember. I think
18 the best answer to that is, cable penetration varies so
19 much within a community that -- and I've noticed in my
20 travels and attempts to market the CBN Cable Network where
21 overlap becomes a problem.

22 BY MR. SCHEINER:

23 Q What would you regard as the problem?

24 A A conflict of any kind.

25 Q It is clear, is it not, that the broadcast of the

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1 very same station, the very same program, by a television
2 station in the community does not dissuade, bar you, or
3 deter you in any respect from soliciting and delivering
4 the same program to a cable system in the same community.
5 If that's clear, we can move on. That is correct, is it
6 not?

7 A I think the comparison is 24 hours of programming
8 versus perhaps an hour, so there is really --

9 Q Would you turn to your Exhibit 14, please. I'm
10 sure I'm obtuse and there is a ready answer for this, but
11 the first page of this Full Study from Multichannel Almanac,
12 December 27, 1982 is on the face of the document, and the
13 next page is a study prepared for Multichannel by ELRA
14 dated 1983. Can you explain that, please?

15 A You mean the difference in the dates?

16 Q Yes. How does a later study get in an earlier
17 publication?

18 A I think it was printed in December, before it
19 was issued in January, it seems fairly clear to me. I
20 never gave it a second thought. The ELRA Group released
21 it on January 20, 1983, and it was a study for -- that's
22 less than a month from the time the study was completed,
23 and it seems fairly standard.

24 Q It was released at a later date.

25 A Within three weeks.

1 Q That does explain it for me.

2 I have previously distributed a document entitled
3 Settling Parties Exhibit 24, which is a full copy of the
4 Multichannel News ELRA Group survey, do you have that?

5 A I do.

6 Q Your Exhibit 14 starts with page 14 of the ELRA
7 survey, correct?

8 A Yes.

9 Q Would you turn to SP Exhibit 24 at page 4 of
10 that exhibit. I note there that the number -- in the cate-
11 gory of Number Who Value Channel Most, CBN ranks 10th and
12 as compared with the next preferred category of service,
13 PBS, the respective numbers are 88 and 28. That's a rather
14 substantial disparity, is it not?

15 A Yes, difference.

16 Q And percentagewise, the difference is 8.3 and
17 2.6. Is there any reason for not including this table in
18 Exhibit 14?

19 A I think as Ms. Ford has pointed out, in the
20 interest of brevity, there're several tables in this report,
21 and we were responding to the one piece of the document
22 referring to CBN Cable as being valuable, so we used the
23 table that spoke -- that addressed that issue.

24 Q Turn to page 9 of SP Exhibit 24. As I read that,
25 the first several sentences in the first paragraph, CBN

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1 has a rather prominent position among the services that
2 subscribers regard as the Least Valuable Channel, do you
3 disagree? Is that not a fair reading of this survey?

4 A Yes, I see that along with the sports orientation
5 of ESPN, for subscribers who typically do not share a
6 specific viewpoint. Those who are not oriented towards
7 sports feel the same way about ESPN -- in fact, they think
8 the closeness of ESPN and CBN in that area are very
9 similar.

10 Q Turn to the next page if you would, page 10,
11 Table 3, Number Who Value Channel Least. CBN heads the
12 list with 121 mentions, is that not correct?

13 A Yes. ESPN is a percentage point away.

14 Q And after that, sir, which is the next least
15 valuable channel?

16 A It looks like PBS.

17 Q Which one did you mention?

18 A PBS.

19 Q CBS?

20 A PBS.

21 Q And the difference between 121 and 87 mentions?

22 A Well, I went from ESPN at 112 to PBS. I thought
23 that is what you were asking.

24 Q Take a look at page 16 of the same exhibit if
25 you would. Have you studied this full report, sir?

1 A I have.

2 Q Would you be good enough to explain what Table
3 6 purports to show?

4 A I think probably it would best be explained by
5 reading the previous paragraph. "The results of the survey
6 can be combined to estimate a minimum value per thousand,
7 for leading cable services. This is the value that the
8 fans for each service assign to it based on the percentage
9 of their monthly cable bills they are willing to spend to
10 get it alone. This amount is then multiplied by the
11 estimated number of fans per 1,000 subscribers. This is
12 a conservative estimate of a service's total value since
13 many cable subscribers might also pay considerable sums
14 for their second and third choices among cable services
15 as they do. The minimum cost Value Per Thousand of select
16 leading cable services are shown."

17 Q And is it correct that the fact that CBN Cable
18 does not appear in that listing indicates that it is
19 regarded to have some lesser value than those listed?

20 A I think when -- yes -- well, it's not listed in
21 that table, to answer your question. There's combined
22 pay services in there as well, and also network.

23 Q And is the same comment appropriate with respect
24 to Table 7 on the next page, System Managers Most Valuable
25 Channels? No mention of CBN, correct.

1 A I don't see CBN listed in that table.

2 Q Now turn to page 19, System Operators Least
3 Valuable Channels, with CBN heading the list, correct?

4 A They are tied for the top, it looks like to me,
5 with the network affiliates and SPN.

6 Q Now let's go to page 20. Ms. Ford had you read
7 into the record Appendix C, or portions of Appendix C to
8 your Exhibit 14. We will get into specific reasons ad-
9 vanced in support of this conclusion, but in your experi-
10 ence, sir, is that summary statement for the reasons
11 operators dislike CBN a fair statement? There's a lack
12 of interest in religion. The quality of programming is
13 poor. According to our surveys, this show is the least
14 watched.

15 Is that a fair reflection of what this survey
16 reports as to the attitudes of cable system operators?

17 A I have found that they overwhelmingly support
18 in the opposite direction many times.

19 Q This survey is inadequate --

20 A No, I didn't say that. I just said that I find
21 that cable operators frequently compliment CBN on the
22 quality of their programming.

23 Q And those that dislike CBN, is this statement
24 a fair expression of their views?

25 A I think it's a fairly selective interview.

1 Q It's an unfair comment.

2 A It's obvious it got those comments because they
3 printed them. I don't think it's representative of the
4 entire cable industry, for cable operators.

5 Q And would you turn to page 22, Table 9, What
6 Operators Think Cable Subscribers Value Most, we do not
7 find CBN included within the list, fair?

8 A It's what operators think.

9 Q And if you turn to Table 10, Viewership and
10 Satisfaction Levels for Leading Program Services. Am I
11 correct in reading this table as indicating CBN is well
12 at the bottom of that list?

13 A Actually, I see in the second column, percentage
14 of Very Satisfied with CBN is 42 percent, higher than NBC
15 and higher than CBS, higher than HBO -- well, I guess not
16 quite as high as HBO, which is interesting.

17 Q Let's turn to Appendix B to the same exhibit,
18 and more particularly to -- I hope you can find it, the
19 pages are not numbered -- well in the middle of Appendix
20 B, under the caption CBN -- Appendix C -- I'm sorry.
21 Are these typical or representative of the comments received
22 by CBN Cable from subscribers who don't like that service?

23 A I think comments such as these are typical in
24 any survey that I've ever seen, as evidenced by the other
25 networks that are listed here.

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1 Q Certainly, the content of the comments is not
2 typical of comments of other program services, is it?
3 For example, "I don't go for that holy-roller". In order
4 to evaluate the favorable comments which you included in
5 your Exhibit 14, is it not appropriate to include these
6 rather unfavorable comments?

7 A Well, it was rebuttal to a comment of CBN being
8 unfavorable, and that's why we presented the favorable.

9 Q Would you turn to Settling Parties Exhibit Number
10 25, which tracks your Exhibit 15. What was the sample
11 size in this exhibit? 150, was it not?

12 A Yes.

13 Q And what were the number of respondents of the
14 persons surveyed?

15 A I think that varies, particularly by question.
16 Some of them answer some questions, some don't, because
17 they don't carry that particular network. So each question
18 is slanted, particularly this study, the objective of
19 which was to view not only the programming but advertising,
20 to see who was viewing local advertising.

21 Q Well, on the programming side, do you know the
22 number of respondents?

23 A No, I don't. I think they give that --

24 Q I couldn't find it.

25 A They give it on the individual questions.

1 Q They do? I thought they furnished only percen-
2 tages. Do they also furnish the number? Oh, yes, I see
3 it.

4 Would you turn to the questionnaire itself,
5 which you set out in the appendix to Exhibit 25. Would
6 you explain for me, please, because I genuinely do not
7 understand what those numbers mean under the three columns
8 which appear in the bottom two-thirds --

9 A Question 2, Question 3 --

10 Q No, the numbers under those columns.

11 A That's just the way of identifying the individual
12 network.

13 Q I don't understand. Arts and Entertainment
14 Network is Number 1, Satellite Network is Number 1, and
15 so is the Weather Channel. How does that work?

16 A Well, they are to give two services, or to
17 answer two services for each question.

18 Q How does that relate to these numbers?

19 A They would fill in the boxes on the subsequent
20 page, and include that as they complete the survey, and
21 there is a mathematical formula for determining the results,
22 probably a grade of some sort given the answer.

23 Q Nobody would fill in for a question asking for
24 two choices, you wouldn't fill in anything by number 2,
25 would you? I don't know what this means, and if you could

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1 explain it, I'd appreciate it.

2 A Is that of interest to you?

3 Q Yes, else I wouldn't ask the question.

4 A Perhaps those responsible for conducting the
5 survey would be able to enlighten us on the questionnaire.

6 Q Turn to your Exhibit 15.

7 COMMISSIONER COULTER: I think on that last one,
8 Mr. Scheiner, you just write down those numbers, the code
9 -- it's a question and answer, and you just write down
10 the numbers, and that forms a code.

11 MR. SCHEINER: Thank you, sir.

12 BY MR. SCHEINER:

13 Q Turn to your exhibit which lists -- I'm looking
14 at page 2, Percent Carrying, and two columns, '84 and '83.
15 Here, too, I'm asking for clarification. When I compare
16 the numbers under column '83 with the numbers in your
17 Exhibit 3 which this is designed to address in some
18 fashion, I find very different numbers.

19 For example --

20 A 55 percent for '83?

21 Q Let me show you the exhibit and, at the same
22 time, alert the members of the Tribunal, I'm referring,
23 for example -- and I will give this to the witness in just
24 a moment -- to Settling Parties Exhibit Number 3, which
25 shows What Basic Channels Do You Carry, ESPN 73, and when

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1 I look at yours, I see ESPN 85, is there a different
2 source and, if so, what was the source?

3 A What was the source of your report, Multichannel?

4 Q First, let me ask you, sir, what is the source
5 of the numbers set out in the column Percent Carrying in
6 1983? What is the source?

7 A Although they don't state that on the sheet,
8 I suspect it's their survey -- a survey that was conducted
9 in '83 by Multichannel News.

10 Q I think you don't know.

11 A It doesn't state here.

12 Q It doesn't state, and you don't know.

13 MS. FORD: I think it does say in there. On
14 page 1 it says where it came from, I believe. It says,
15 "The results of this survey are compared to a similar
16 survey taken June of 1983".

17 MR. SCHEINER: Is that a different survey than
18 the one that was set out in Settling Parties Exhibit 3?

19 MS. FORD: I think it's the same one. On your
20 page it says, "A survey of 150 selected cable system
21 operators between June 7 and June 10, 1983". It's on
22 page 1 of your exhibit, in the text.

23 BY MR. SCHEINER:

24 Q The data that you furnished starts at page 4 of
25 the survey. Take a look now at Settling Parties Exhibit 25,

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1 and look at page 5 of that exhibit. In the column headed
2 Specific Programming Services to be Added, and then at
3 1984 you are in a dead heat with C-SPAN, is that correct?

4 A Uh-huh.

5 Q Which is at the very bottom of the list, correct?

6 A Uh-huh.

7 Q Was there a good reason, other than the apparent
8 one, for not continuing with the materials furnished
9 beyond page 4?

10 A Of the 20-some pages, or whatever is in that
11 report, again, we stopped at the point to formulate our
12 rebuttal to respond to the question at hand.

13 Q And if we turn to the next page, how does
14 question 10 fit at all to the manner in which CBN operates?
15 Let me explain my question. When you talk about overall
16 costs for basic programming, is it at all appropriate to
17 include CBN in such a question?

18 A Are you asking me if it is appropriate to
19 include CBN as a part of a basic program lineup?

20 Q In a system which is provided with the CBN
21 service respond to a question which is looking towards
22 their cost for getting that service, can they?

23 A I understand the question, yes.

24 Q Can they?

25 A I don't know why they wouldn't be. If they are,

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1 in fact, carrying them as a basic service, of course, they
2 are a part of the expense. Hardware cost alone is an
3 investment to carry any satellite service.

4 Q Turn to the appendix to Exhibit 25. My recol-
5 lection is, parenthetically is that the length of one of
6 these -- the questionnaire itself is perhaps ten minutes,
7 and when the interviewer rattles off in succession,
8 Cable News Network, CNN, CNN Headline News, C-SPAN, CBN
9 Cable Network, do you see any possibility or likelihood
10 for confusion in the respondent?

11 A I think that's a scale that's computed in, again,
12 any survey, but sure there is.

13 Q You made a reference, a statement to the general
14 effect that superstations were copying CBN, is that the
15 sense of your testimony?

16 A Well, I said other basic cable channels as well
17 as a superstation has recognized the value of family
18 format. Whether I said they were copying CBN or not, I
19 don't recall.

20 Q Are you saying that now?

21 A That they are copying CBN? No, I'm not saying
22 that.

23 Q And I take it your testimony is that there is
24 some similarity between the programming of superstations
25 and the programming of KXTX, is that your point?

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1 A No, I was talking about the superstations that
2 are on satellite.

3 Q That's what I'm talking about. Broadcast stations
4 that are picked up, that are denominated as superstations,
5 that are picked up and they are retransmitted by satellite
6 as distant signals to cable systems. Are we talking about
7 the same thing?

8 A It's fair to say that our devotional, inspira-
9 tional programming is quite similar.

10 Q We have examined TV Guide for the week of July
11 28, August 3, 1984, religious programming broadcast by
12 WTBS channel 17, and the source, as I indicated, is TV
13 Guide. I would like to mark this as Settling Parties
14 Exhibit Number 26.

15 (Whereupon, the document was
16 marked Settling Parties Ex-
17 hibit No. 26 for identifica-
tion.)

18 Do you regard the amount of time devoted by
19 WTBS during that week as similar to that of KXTX?

20 A For this particular week, I don't have a program
21 guide for KXTX.

22 Q Do you regard it similar to the amount of time
23 devoted generally throughout the year by KXTX, to devo-
24 tional programming?

25 A I think probably that question should be directed

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1 to Mr. Reid.

2 MR. SCHEINER: I have no further questions.

3 CHAIRMAN BRENNAN: Ms. Ford?

4 REDIRECT EXAMINATION

5 BY MS. FORD:

6 Q Mr. Hohman, let's turn our attention back to
7 Settling Parties Exhibit 24, which is the full study of
8 which our Exhibit 14 is a part. Could you turn, first,
9 to Table 1. I think you've looked at it already with Mr.
10 Scheiner, and he noted the difference between the number
11 who value the channel most, CBN 28, PBS 88.

12 Could you go over across the table and compare
13 the numbers who have watched the channel and the percentage
14 who watch the channel who value it most, and comment on
15 those numbers, please?

16 A For the number who watched, a sampling of CBN
17 was 274, with a percentage of most valued as 10.2, which
18 is percentagewise certainly quite close to PBS and higher
19 than CNN or MTV or WGN superstation.

20 Q So the percentage of those who watched the
21 programming who valued it most, those who watched CBN and
22 PBS is pretty close?

23 A They are quite similar, and higher than other
24 superstations, and other basic cable networks.

25 Q Could you turn to the next page, page 5, and

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1 read into the record the first paragraph.

2 A "Subscribers who cite superstations WGN, WTBS
3 or WOR as their favorites mention the variety that these
4 channels offer as an important factor in their choice. The
5 old movies that they carry are also special favorites.
6 Narrow casted services as CBN, Cable Health Network, C-SPAN,
7 MTV and ESPN seem to attract their viewers on the basis
8 of catering to special interests. For example, when ESPN
9 fans are asked why they find the service worthwhile, they
10 most often answer that they simply have a deep interest
11 in sports. Similarly, CBN fans often express strong
12 Christian beliefs and appreciate having a channel that
13 shares their viewpoint."

14 Q In the next paragraph there is a comparison
15 made between PBS and CBN, could you comment on that?

16 A Between ESPN or PBS?

17 Q PBS and CBN.

18 A Well, CBN has a large number of senior citizens
19 among those that find it most valuable, and both PBS and
20 CBN are valued most by highly educated respondents.

21 Q Mr. Scheiner turned your attention to Appendix C,
22 which is a list of responses by cable subscribers as to why
23 they don't like particular channels, and I think he asked
24 you whether the responses to CBN were different from the
25 responses to other services. Could you comment on the

1 responses to services such as ESPN and PBS, in Appendix C?

2 A Do you want me to read them?

3 Q Well, just --

4 A Just in general -- I answered in general for
5 all the responses of this kind and this nature for surveys,
6 and that's positive statements and negative statements,
7 and for ESPN, of course, there are statements saying "I
8 don't care for sports", "I'm not interested, I don't like
9 sports", and it says it over and over again for ESPN.
10 There's four pages of that, "I don't like sports".

11 In reference to PBS, there's, again, four pages
12 of comments saying they don't like documentaries, "They
13 are boring", "Nothing is of interest", so on and so forth,
14 "Rarely watch it", "It's one thing I don't watch", "I'm
15 not an opera or theater fan", "Same as channel 2".

16 Q Could you just basically summarize for the
17 Tribunal what the purpose of this survey was? What was
18 the point of the survey in Settling Parties Exhibit 24,
19 the stated purpose?

20 MR. SCHEINER: I'm going to object to that,
21 Mr. Chairman. The witness has made clear that if we want
22 to know anything substantive about this, we go to the
23 authors of the survey. He is simply not competent to
24 testify with respect to the survey, other than to read
25 numbers out of the pages for us.

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1 MS. FORD: I would beg to differ. The stated
2 survey is what I asked for, and that is very clearly set
3 out in the first couple pages of the survey, which I think
4 he can testify to.

5 CHAIRMAN BRENNAN: The objection is overruled.

6 BY MS. FORD:

7 Q What is the stated purpose of this survey?

8 A The purpose of the survey is to compare the value
9 of cable television in giving the points of view of the
10 cable operator and the cable viewer, different points of
11 view.

12 Q And to your knowledge, were the responses from
13 subscribers and the responses from operators generally
14 different when they were asked about CBN? In other words,
15 do they track, are they same, the responses of cable
16 operators and the responses of cable subscribers, or do
17 they differ?

18 A They differ.

19 Q Could you elaborate, please?

20 A Very definitely, the cable viewer -- and particu-
21 larly I think we have to remember this survey was done in
22 1982, and the cable viewer already had acknowledged they
23 appreciated the viewing of CBN. At that point, I'm not
24 sure the cable operator recognized it as well. I think
25 we see in later surveys where their point of view is

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1 significantly changed.

2 MS. FORD: I have no further questions.

3 CHAIRMAN BRENNAN: We turn now to matters related
4 to the CBN satellite contract. Ms. Ford, do you want to
5 open that issue?

6 MS. FORD: Sure, why not.

7 This will be Devotional Claimants Exhibit 20.

8 (The document was marked De-
9 votional Claimants Exhibit
No. 20 for identification.)

10 We had offered into evidence Devotional Claimant
11 Exhibit Number 19, which is the CBN Cable Network Affilia-
12 tion Agreement, and were asked by the Tribunal to provide
13 any elaboration on this contract.

14 FURTHER DIRECT EXAMINATION

15 BY MS. FORD:

16 Q Mr. Hohman, is this CBN Cable Network Affiliation
17 Agreement the standard CBN Channel agreement?

18 A Yes, it is. It's standard affiliate agreement
19 with cable affiliates.

20 Q Is it standard practice to attach to it any
21 other addendums?

22 A It's not only standard practice, it varies,
23 depending on the circumstances.

24 Q Do these addenda that are represented in
25 Devotional Claimants Exhibit 20, was this in existence in

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1 1982?

2 A Were the benefits available, or the addendums?

3 Q The addendums.

4 A No.

5 Q Do you have a copy in front of you?

6 A Yes, I do.

7 Q Were these benefits that are comprised in these
8 attachments available in 1982?

9 A This benefit, marketing benefit program, was
10 announced in the last half -- in fact, the fourth quarter
11 of 1982.

12 Q And it continues today?

13 A It continues today, that's true.

14 Q Could you go through the three pages and basically
15 explain as well as you can what these benefits are?

16 A The first one that says revenue sharing, local
17 commercial availabilities?

18 Q Yes.

19 A That is a benefit that we provide to the cable
20 operator who has local insertion capability. We provide
21 him 24 minutes Monday through Friday, and what is not
22 stated on here, we provide 12 on Saturday and 8 on Sunday
23 now, of time that the local cable operator can use in
24 selling local advertising.

25 Q Do other cable services have such arrangements?

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1 A Yes. All ad-supported. It is common practice.

2 Q Do you have any specifics that you could share?

3 A ESPN offers twice the amount that we offer.

4 They offer 48 minutes, in some cases, more, of local
5 avails.

6 Q Would you explain how this works, just in a
7 practical sort of way?

8 A There are 30-second spots and five seconds prior
9 to a spot available, you can hear a little sub-audible
10 tone. You can hear an audible tone of five tones that
11 precedes a spot announcement, and that time has been given
12 to the cable operator. He can go out and sell it to a
13 local merchant, and that is a form of revenue that the
14 local cable system derives from the cable service, so that
15 that's time that's provided back to the cable operator
16 in and amongst the programming that's provided by the
17 cable network.

18 Q Let's talk in 198- -- maybe you could preface
19 your remarks by the year, 1982 and 1983. In those years,
20 how many affiliates did you have? In other words, how
21 many cable systems carried your channel?

22 A In 1982?

23 Q Yes.

24 A I would say approximately 3,000.

25 Q How many carried it in 1983?

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1 A 3800. We are currently at 4,619 affiliates.

2 Q And in 1982, how many cable systems took advantage
3 of this benefit?

4 A It was announced in the fourth quarter, and by
5 the time the program really got started, it was out with
6 the marketing tools and packages, it was really 1983 before
7 anyone began to take advantage of it. Less than -- at the
8 most, a handful of cable operators took advantage of it
9 maybe in late '82, but we've lumped our '82 and '83 figures
10 together because there are so few in each year.

11 Q How many in '82-'83?

12 A Now in these other programs, there's a coopera-
13 tive advertising program where we share the advertising --

14 Q Do you have separate figures for this, or not?

15 A No, I don't. In fact, the last cable operators
16 for sure took advantage of the local avails because of the
17 requirement to have the equipment.

18 Q Do you have any figure as to what that percentage
19 might be?

20 A Less than 1 percent.

21 Q In 1982 and 1983?

22 A Yes.

23 Q What about 1984?

24 A The number for local avails?

25 Q Yes.

1 A I would say, right now, perhaps 25 systems are
2 selling local avails.

3 Q So what percent --

4 A Whatever that percentage is of 4,619 -- pretty
5 low.

6 Q Let's turn to the next benefit, CBN Cable Network
7 Local Commercial Sales Guarantee. What does this mean?

8 A Well, we call our local commercial sales guarantee,
9 we actually cross-promote CBN on other cable systems, and
10 we buy that time from the local cable operator at a cost
11 at a rate of up to 10 cents per subscriber per year.

12 Q What percentage of the cable operators that were
13 your affiliates took advantage of this service in '82 and
14 '83?

15 A 113.

16 Q At what percentage of -- 113 total?

17 A 113 total in 1982 and '3 combined took advantage
18 of it.

19 Q Out of 30,800? So that's what, a little over
20 3 percent, 3.8 percent? What about 1984?

21 A It's about 3 percent. 1984, 147, as of 7-1 --
22 I take that back, 172 systems are currently participating
23 in the commercial sales guarantee as of 7-1-84.

24 Q So that's --

25 A Again, that's less than 4 percent.

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1 Q Do other cable channels have similar marketing
2 promotion schemes?

3 A Yes, they all have one form or another. This
4 particular form -- other cable systems are beginning to
5 use -- it's very effecting for promoting our service on
6 another service, on another cable service.

7 MS. FORD: I'm handing out and identifying for
8 the record Devotional Claimants Exhibit 21.

9 COMMISSIONER COULTER: I wasn't here when this
10 issue was raised during the main case, sir, but the vast
11 bulk of cable systems don't use any of these contracts,
12 is that right?

13 THE WITNESS: They use our contract, they don't
14 use the benefit, they don't participate in the benefit.

15 BY MS. FORD:

16 Q They use a standard contract, that first one?

17 A The first document, the Affiliate Relation
18 Agreement, they all use. In order to carry us, they have
19 to have that. The documents we are discussing now are
20 the addendums to that main contract.

21 (Whereupon, the document was
22 marked Devotional Claimants
23 Exhibit No. 21 for identifica-
tion.)

24 Q I've passed out Devotional Claimants Exhibit 21,
25 which is an article from Multichannel News, July 9, 1984.

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1 Could you explain this article?

2 A Basically, USA is doing the same thing we are
3 talking about, and that is buying local avails on MTV, so
4 they actually promote their service, in particular, their
5 music video program, on a network of similar type pro-
6 gramming. Unique to cable perhaps, to see one network
7 advertising another network.

8 Q And could you turn to the next benefit, which
9 I believe is the Cooperative Advertising Program. How
10 does this work?

11 A Again, the cable operator is reimbursed for 50
12 percent of his cost for promoting CBN, again, up to 10
13 cents per subscriber per year. So on a 10,000 subscribed
14 based system, he would be allocated \$1,000 for that year
15 to spend on advertising. If he spent \$100 on a print ad
16 advertising the 700 Club, we would share that \$100 cost
17 on a 50-50 basis.

18 Q So in other words, if the cable operator took
19 out an ad in the local paper for the 700 Club listed as
20 showing at 9:00 p.m., CBN would pay for half of that ad?

21 A That's correct. It's a cooperative advertising
22 program, again, a program that's very similar to what
23 other networks use as well.

24 Q What percentage, if you know, of the cable
25 operators take advantage of this plan?

1 A For 1984, 165 systems are currently, or have
2 taken advantage of it to-date.

3 Q Is that like under 5 percent?

4 A Yes, definitely under 5 percent.

5 Q And what about 1982 and 1983, how many systems
6 took advantage of this?

7 A 89.

8 Q Do you find that there is overlap between those
9 who take advantage of one plan and those who take advantage
10 of another?

11 A Definitely. Many of the systems that participate
12 in one will participate in the other plan. The majority
13 of them.

14 Q To your knowledge, what is the total number of
15 systems that take advantage of all these or of any of
16 these benefits?

17 A I think 300 is a fair number, total systems, in
18 1984, that are taking advantage.

19 Q Does CBN pay cash to cable operators to take
20 their channel?

21 A No.

22 Q Is CBN an advertiser supported channel?

23 A We are an ad supported network.

24 MS. FORD: I'd like to pass out Devotional
25 Claimants Exhibit 22.

(Whereupon, the document was
marked Devotional Claimants
Exhibit 22 for identification.)

BY MS. FORD:

Q Can you explain Devotional Claimants Exhibit 22?

A This is a list of national advertisers that
currently or have advertised on CBN Cable Network.

Q Did you prepare this list?

A No, I didn't.

Q To your knowledge, is this an accurate list of
advertisers who pay -- who are involved with the CBN
channel?

A Yes, I think it's the kind of thing that changes.
There's advertisers being added daily, but overall I would
say this is accurate.

MS. FORD: I have no further questions.

CHAIRMAN BRENNAN: Any questions by Commissioners
at this point?

EXAMINATION BY THE TRIBUNAL

BY COMMISSIONER COULTER:

Q Sir, could you just refresh my memory. You say
the basic agreement is used by what, about 90 percent of
the systems?

A That contract is used by -- I mean, our goal
is 100 percent. There may be a few out there that are
not legally signed, but I would say almost -- close to

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1 everyone is.

2 Q This is the main one?

3 A With our affiliate companies.

4 Q The others just pick up everybody else, the
5 ones you have just cited here as exceptions?

6 A No. These are attachments to that contract.
7 These are addendums. So when an affiliate signs the cover
8 affiliate agreement, if they are going to participate in
9 one of the programs, or all of them, they would also
10 attach --

11 Q I didn't phrase my question properly. Approxi-
12 mately 90 percent use this without any changes?

13 A Without any changes to the contract? Oh, yes.

14 Q About 90 percent?

15 A I would say, yes.

16 COMMISSIONER COULTER: Thank you.

17 CHAIRMAN BRENNAN: Mr. Scheiner?

18 FURTHER CROSS-EXAMINATION

19 BY MR. SCHEINER:

20 Q How long have you been with CBN Cable Network?

21 A It will be two years in October.

22 Q You indicated that these benefits commenced
23 sometime in the last quarter of 1982?

24 A Yes.

25 Q Prior to the commencement of these benefits,

1 did Cable Network provide any other benefits to cable
2 systems?

3 A None that I'm aware of.

4 Q In references to cash payments, any hard goods
5 provided in terms of, for example, satellite receiving
6 stations?

7 A None that I'm aware of.

8 Q Since the time that this benefit program has
9 commenced, are there any benefits, any consideration other
10 than those reflected in these three attachments that have
11 been provided by CBN to cable systems?

12 A Well, we have various marketing supplies and
13 materials that we provide on a case-by-case basis.

14 Q Do you want to tell us about that?

15 A We have an insert consumer brochure, for example,
16 that a cable operator would insert in his monthly statement,
17 and it is our CBN program guide, and we would provide that
18 to cable operators that had a need or wanted to do an
19 insertion in their monthly statement.

20 There's a number of premiums, for example, that
21 would be used in a cable fair where the local community
22 was having a cable fair, and we would provide brochures
23 or bumper stickers or something on that order for those
24 kinds of things.

25 Q Does that complete the list?

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1 A Yes.

2 Q There have been a number of articles introduced
3 in evidence in this proceeding, all of which are to the
4 effect that cable systems can enjoy a bonanza up to 20
5 cents per subscriber per year, up to a limit of \$20,000.
6 You are familiar with those things that have surfaced in
7 the industry, are you not?

8 A I've seen articles.

9 Q Can you explain why relatively few systems have
10 taken advantage of that publicized bonanza?

11 A Well, for one thing, in relation to the commer-
12 cial sales guarantee, they've got to have -- they have
13 to have the physical hardware to insert local commercials.

14 Q That's on the category of local availabilitites.

15 A As well as the commercial sales guarantee, which
16 is half of the 20 cents, for 10 cents, or they would cost
17 promote CBN on other networks. They must have the hard-
18 ware to insert that, and probably 10 percent, less than
19 10 percent of the cable operators have that equipment,
20 so that accounts for that portion.

21 In cooperative advertising, you will find that
22 that's typical with other networks as well, and one of the
23 things that the cable operators today are looking at as
24 to why they haven't availed themselves of the cooperative
25 advertising budgets that the services have made available

1 to them. So it is something that their management is look-
2 ing into. It's a good question. They should because it
3 is a good program.

4 Q Well, the other networks that you've referred
5 to -- ESPN, USA -- are services which the cable systems
6 pay to get, is that not correct?

7 A You're talking about now, in 1984?

8 Q '82.

9 A '82, no, they didn't.

10 Q Did not pay USA or ESPN?

11 A That's right. As a matter of fact, ESPN paid
12 cable operators to take them in 1982.

13 Q And currently?

14 A Currently they charge.

15 Q What about USA?

16 A That's similar.

17 Q Currently charged?

18 A That's right. It varies. They have a published
19 rate that they state that they charge, but it varies with
20 the system and the circumstance.

21 Q We have covered this point with other witnesses.
22 Neither ESPN, USA or Cable News Network is a claimant to
23 the cable royalty funds in this proceeding before the
24 Tribunal, is that your understanding?

25 MS. FORD: We can stipulate to that.

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1 BY MR. SCHEINER:

2 Q On the co-op advertising, do you require proof
3 from the cable systems that, in fact, they have undertaken
4 promotional advertising efforts?

5 A Yes, we do.

6 Q What is the nature of the proof you require?

7 A A tear sheet, an invoice, a log that would
8 document, invoice from a radio station if they ran a spot,
9 copy of the actual ad they ran.

10 Q When you recited the numbers of systems that took
11 advantage of your benefits, how would you classify an
12 MSO, as one system under the MSO banner, or multiple
13 systems?

14 A Well, MSO is multiple system.

15 Q Would you count it as one, or would you count
16 it as the number of systems owned by the MSO? Take ATC,
17 for example. Let us assume, or pick a number out of the
18 air, that ATC had 50 cable systems. The numbers that
19 you gave us, would you count ATC as 1 or as 50?

20 A As the number that are participating?

21 Q Yes.

22 A We would count them as one.

23 Q So that if ATC took advantage of these benefits
24 and ATC had 50 systems, when you tell us -- pick a number
25 -- that 100 systems took advantage of it, one of that 100

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1 consisted of ATC with 50 systems --

2 A Oh, I think I misunderstood.

3 Q -- so you are really saying 149 systems?

4 A I think I misunderstood. They would -- the num-
5 ber I would reflect is that every system, whether it was
6 a part of ATC or a major MSO or not, so that's in total,
7 the number of --

8 Q In my hypothetical, if ATC were beneficiary,
9 you would include them as 50 systems?

10 A That's correct. Well, we would include those
11 systems under ATC that participated. Perhaps -- in fact,
12 all of them don't, but some do. So of the 50 that they
13 totally have in their organization, perhaps on 15 of the
14 50 would participate, and we would count those 15.

15 Q And the numbers you gave us earlier would have
16 counted ATC, in your hypothetical, as 15 systems, not 1?

17 A That's correct.

18 Q How many of ATC's systems obtain one or more of
19 the benefits that are provided by CBN?

20 A ATC -- I don't know the exact number. Many of
21 them use our co-op program.

22 Q How many?

23 A Many. I'm reluctant to give you a number because
24 I'm not really sure of the number. They do participate,
25 in general.

1 Q What's the total of those in your co-op program?

2 A For 1982? Combined, co-op advertising alone
3 was 89.

4 Q And can you estimate how many of those were ATC?

5 A No. In fact, I'm not certain ATC participated
6 in 1982. I don't believe they started until '83.

7 MR. SCHEINER: That will conclude my examination.

8 CHAIRMAN BRENNAN: Ms. Ford?

9 MS. FORD: Just a couple of questions.

10 FURTHER REDIRECT EXAMINATION

11 BY MS. FORD:

12 Q You testified in response to a question by Mr.
13 Scheiner that the CBN Cable Network provided inserts and
14 subscriber listings and bumper stickers, those kinds of
15 premiums. Is that common in the industry? Do other cable
16 services provide such promotional material?

17 A Yes, that is fairly common.

18 Q And you also testified that ESPN did not charge
19 in 1982 and now it is charging cable systems?

20 A Yes.

21 Q Is the CBN Cable Network contemplating charging
22 cable systems at this time?

23 A We are reviewing the possibility of charging
24 cable systems, and we are formulating a plan at this point
25 to charge cable systems that tier us, that charge an

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1 additional fee for us above basic.

2 Q You testified that fewer than 5 percent of your
3 affiliates take advantage of the individual benefit plans.
4 In your opinion, is it the programming or the benefits
5 that attract your cable affiliates?

6 A It's no question it is the programming.

7 MS. FORD: I have no further questions.

8 CHAIRMAN BRENNAN: Thank you, Mr. Hohman, for
9 your appearance and your testimony. Mr. Bechtel?

10 (Whereupon, the witness was excused.)

11 MR. BECHTEL: If I could have one minute, other-
12 wise I've got to carry these back home.

13 CHAIRMAN BRENNAN: I thought you had something
14 in mind.

15 MR. BECHTEL: Mr. Chairman, yesterday I indi-
16 cated a desire to put in the record information concerning
17 the governance of the Old Time Gospel Hour and PTL Tele-
18 vision. I also indicated that counsel for the Old Time
19 Gospel Hour had kindly consented to this proposal on the
20 basis that I place in the record three documents, which
21 I am very happy to do.

22 The first one of these is entitled Jerry Falwell,
23 Man of Vision, and I have marked that for identification
24 as SP Exhibit 27. It is a document that is approximately
25 80 pages in length.

1 The second I have marked for identification as
2 SP Exhibit 28, and the Xeroxing comes out a little strange.
3 The original is a white covered brochure called We've
4 Come This Far by Faith, and then it has a picture in the
5 inside flap. The Xeroxing comes out with the picture
6 first, and then the inside title sheet, We've Come This
7 Far by Faith. This document is approximately 62 pages in
8 length.

9 The third document is entitled Faith Partners,
10 marked for identification as SP Exhibit 29, approximately
11 27 pages in length.

12 I have a few additional copies of these documents
13 here at counsel table. Other counsel who wish them can
14 obtain copies by sending \$1 to the Old Time Gospel Hour
15 at the address indicated.

16 SP Exhibit 30 is a one-page document, a letter
17 dated July 30, 1984, To Whom It May Concern, by John B.
18 York, of the Charlotte law firm of Wardlaw, Knox, Knox,
19 Freeman and Scofield. I ask that SP Exhibits 27 through
20 30 be received in evidence.

21 MS. FORD: I have an objection only because I
22 haven't read these, to begin with, but I'm just questioning
23 as to why they are coming in now.

24 CHAIRMAN BRENNAN: First I would like to get some
25 response from Mr. Midlen since these relate primarily to

1 his client.

2 MR. MIDLEN: Well, Mr. Bechtel asked for them.
3 I guess it was Mr. Scheiner who asked for information with
4 regard to the governance of the two organizations, when
5 we over in the Van Gaard Building, and I had this informa-
6 tion relating to Old Time Gospel Hour in my files, which
7 tends to reflect the national prominence that has been
8 achieved and the goals that are being pursued and have
9 been achieved, and also shows the corporate structure and
10 who is on the board. And Mr. Bechtel asked for it, and
11 I have provided it to him.

12 CHAIRMAN BRENNAN: I don't think we wish to
13 intrude into internal matters of the counsel for Devotional
14 Claimants, perhaps we could leave this until tomorrow
15 to give Ms. Ford a chance to review these materials and
16 advise us of your reaction at tomorrow's session.

17 (Whereupon, the documents were
18 marked Devotional Claimants
19 Exhibits 27-30 for identifi-
20 cation.)

21 MR. BECHTEL: I will be unable to attend tomorrow.
22 I must go to the ABA convention in Chicago tonight, but
23 I will be happy to rest with whatever decision you folks
24 make.

25 MS. FORD: Before we adjourn, could I move
Devotional Claimants Exhibits 20, 21 and 22 into evidence.

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CHAIRMAN BRENNAN: They will be received.

(Whereupon, Devotional Claimants
Exhibits Nos. 20-22 were
received in evidence.)

We will recess until 10:00 tomorrow.

(Whereupon, at 3:45 p.m., the hearing In The
Matter of CRT Docket 83-1 was adjourned, to reconvene at
10:00 a.m., Friday, August 3, 1984.)

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of:

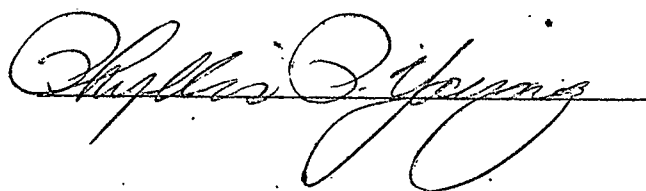
Cable Royalty Distribution
1982 - Phase I

Before: Thomas Brennan, Chairman
Copyright Royalty Tribunal

Date: August 2, 1984

Place: 2000 L Street, N.W.
Room 500
Washington, D.C.

represents the full and complete proceedings of the
aforementioned matter, as reported and reduced to type-
writing.



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